

# When the Legislator Fails to Apply the Law

Analysis of the REM Council Election Process: Child Protection Organizations as Authorized Nominators

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## **Abstract**

This analysis examines the flawed application of the Law on Electronic Media in Serbia, with a particular focus on the participation of associations whose goals include child protection as authorized nominators in the process of selecting members of the REM Council. It highlights legal ambiguities related to the definitions of “child” and “child protection,” as well as the inconsistent and selective evaluation of nominators by the National Assembly’s Committee for Culture and Information. The analysis reveals procedural irregularities and calls for a repeat of the selection process, along with an authentic legal interpretation aligned with international human and children’s rights standards.

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## When the Legislator Fails to Apply the Law

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### The Law on Electronic Media and the REM Council

In 2023, Serbia adopted the Law on Electronic Media<sup>1</sup>, whose implementation is intended to contribute to the advancement of the values of a democratic society, the free flow of information, freedom of expression, and media and political pluralism. This law establishes the Regulatory Authority for Electronic Media (hereinafter: REM) as a body that is functionally and financially independent from state authorities and organizations, media service providers, and operators.

In accordance with the law, REM issues licenses for the provision of television media services and linear radio media services, conducts monitoring and oversight of media service providers, decides on complaints related to the programming activities of media service providers, and imposes measures on media service providers (e.g. warnings, broadcasting bans, license revocations, etc.). REM is managed by the REM Council and a Director, with the Council adopting all acts within REM's scope of work and appointing the Director.

Members of the REM Council are elected by the National Assembly upon the proposal of authorized nominators. According to Article 12 of the Law on Electronic Media, there are nine categories of authorized nominators (independent institutions such as the Ombudsman, universities, associations of electronic media publishers, artists' associations, journalists' associations, associations whose goals include freedom of expression, national minority councils, churches and religious communities), which also **include associations whose goals involve child protection**, provided they have been registered for at least three years prior to the public call and have implemented at least three projects in this field.

### Associations Whose Goals Involve Child Protection as Authorized Nominators

Although Serbia has ratified the United Nations Convention on the Rights of the Child<sup>2</sup>, the Law on Electronic Media fails to define the terms “child protection” and “child” more precisely. The legislator missed the opportunity to clarify these concepts, leaving room for varied interpretations. The term “child protection” can be interpreted in line with the Convention on the Rights of the Child, as actions aimed at safeguarding and fulfilling children's rights while respecting the four core principles of the Convention: (1) the child's right to life, survival, and development; (2) participation; (3) non-discrimination; and (4) the best interests of the child; or it can be interpreted more narrowly, as protection from all forms of violence, exploitation, and abuse<sup>3</sup>.

Additionally, an opportunity was missed to emphasize that, according to the Convention on the Rights of the Child, every human being under the age of 18 is considered a child.

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<sup>1</sup> Official Gazette of the Republic of Serbia, *Law on Electronic Media*, No. 92/2023.

<sup>2</sup> Official Gazette of the FRY – International Treaties, *Law on the Ratification of the United Nations Convention on the Rights of the Child*, No. 15/90, No. 4/96, and No. 2/97.

<sup>3</sup> UNICEF, *Child protection: every child has the right to live free from violence, exploitation and abuse*, available at: <https://www.unicef.org/child-protection>, accessed on June 4, 2025.

This lack of clarity in the Law regarding the definition of the terms “child protection” and “child” has had a negative impact on the nomination process for candidates to the REM Council, to an extent that calls into question the legality and legitimacy of the election process.

Due to the absence of a unified interpretation of the terms “child protection” and “child,” it has become **unclear which association can be considered one whose goals include child protection—and consequently, which association within this category may qualify as an authorized nominator.**

## **Election to the REM Council: Child Protection Organizations as Authorized Nominators**

The Committee for Culture and Information of the National Assembly of the Republic of Serbia published a public call on May 8, 2025, for the nomination of candidates for the election of members of the Regulatory Authority for Electronic Media (REM Council)<sup>4</sup>.

According to Article 12, Paragraph 7 of the Law on Electronic Media<sup>5</sup>, associations whose goals include child protection—provided they have been registered for at least three years prior to the date of the public call and have implemented at least three projects in this field within the last three years—are authorized and obligated to nominate two members to the REM Council.

The public call emphasized that the authorized nominators referred to in Article 12, Paragraph 1, Points 3) to 7) of the Law on Electronic Media<sup>6</sup> must submit, along with their candidate nomination, proof of meeting the requirements for the status of authorized nominator. Associations whose goals include child protection are required to submit the following documentation:

1. Proof that the association has been registered for at least three years prior to the publication date of this public call;
2. The association’s statute demonstrating that its goals include child protection;
3. Evidence of at least three implemented projects in the field of child protection within the past three years.

According to Article 13, Paragraph 4 of the Law<sup>7</sup>, the Committee for Culture and Information of the National Assembly determines the list of candidates and the list of authorized nominating organizations based on compliance with the prescribed criteria.

From the category of associations whose goals include child protection, the Committee for Culture and Information received nominations for six candidates for members of the REM Council<sup>8</sup>:

1. Miloš Radunović (nominated by 55 organizations)
2. Tanja Janković (nominated by 55 organizations)
3. Dušan Aleksić (nominated by 45 organizations)
4. Dubravka Valić Nedeljković (nominated by 45 organizations)

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<sup>4</sup> National Assembly of the Republic of Serbia, *Public Call for Nominations for the Election of Members of the Regulatory Authority for Electronic Media Council*, available at: <http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/javni-poziv/javni-poziv-za-predlaganje-kandidata-za-izbor-clanova-saveta-regulatornog-tela-za-elektronske-medije.5073.html>, accessed on June 4, 2025.

<sup>5</sup> Official Gazette of the Republic of Serbia, *Law on Electronic Media*, No. 92/2023.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Remontuj, *Analysis of the Election Process for the Regulatory Authority for Electronic Media Council (REM)*, Civic Initiatives, available at: <https://remontuj.tv/preliminarni-izvestaj.pdf#page=12.19>, accessed on June 4, 2025.

5. Vladan Škorić (nominated by 1 organization)
6. Ljuan Koka (nominated by 1 organization)

Civic Initiatives, while monitoring the election process for the REM Council, conducted an analysis<sup>9</sup> of this process. In the part of their analysis concerning nominators from the category of associations whose goals include child protection, the following irregularities were highlighted:

1. Numerous organizations that supported the candidates Radunović and Janković do not have clearly documented activities in the field of child protection, which is a legal requirement.
  - One organization amended its statute in February 2025 to include child protection.
  - For 21 organizations, there is no evidence of activities on their networks indicating work with children.
  - At least 17 organizations from the group of nominators for child protection do not meet the conditions set out in Article 12, Paragraph 7 of the Law on Electronic Media:
    - They do not have child protection as a primary statutory activity.
    - They have not implemented at least three projects in the field of child protection in the past three years.
2. The activities of these organizations are predominantly in the fields of:
  - sports, ecology, work with adults, persons with disabilities, crafts, and culture.
  - Children are mentioned only incidentally.
3. These organizations include: Association for the Protection of Traditional Crafts “Lane,” KK Singidunum (wheelchair basketball players), Student Union of the Faculty of Civil Engineering Subotica, Association Šiljkan, Ustani prijatelju, Women’s Center 21st Century, Čoška Vranje, Inter-municipal Organization of the Deaf and Hard of Hearing Subotica, Roma Cultural and Educational Center, Union of Serbian Associations of the North Bačka District, Center for Project Ideas, We Are All Equal (Subotica), Equal (Kragujevac), Tour de Fruška, Duga Negotin, Eko Natural Bačka Palanka, Network for Welfare Prijepolje.

The Civic Initiatives Association received a letter from the National Assembly in response to the submitted analysis, signed by Sanja Jević Branković, Member of Parliament and Deputy Chair of the Committee for Culture and Information.

Although Civic Initiatives challenged 17 associations that nominated Miloš Radunović and Tanja Janković as candidates, it appears that the Committee’s Professional Service did not investigate the claims regarding these associations. Instead, they subsequently focused on further verifying the eligibility of the nominators who put forward Dušan Aleksić and Dubravka Valić Nedeljković as candidates.

According to this letter from the National Assembly, the Professional Service determined that out of 44 associations that nominated Dušan Aleksić and Dubravka Valić Nedeljković, only 17 associations

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<sup>9</sup> Ibid.

cumulatively meet all three conditions prescribed by the Law, if the criteria set by Civic Initiatives were applied strictly. Despite this, the Committee further emphasizes that all 44 nominators who put forward Aleksić and Valić Nedeljković meet the requirements to be considered authorized nominators, even though they had previously stated that certain associations do not fulfill all the necessary conditions.

Furthermore, in its response to the Civic Initiatives' letter, the Committee stated the following: *"In support of this is the fact that, out of the 44 associations that nominated Dušan Aleksić and Dubravka Valić Nedeljković, only 17 organizations cumulatively meet all three conditions prescribed by the law, if the criteria of the Civic Initiatives association were to be strictly applied."* Based on this statement, it appears that the Committee—as a body representing an organizational unit of the highest legislative authority, the National Assembly of the Republic of Serbia—fails to acknowledge that **these legal criteria were established by the National Assembly itself**, not by a particular civic association.

In that context, the Committee's emphasis on what the list of nominators would look like if the Civic Initiatives' criteria were strictly applied seems particularly odd, as those are not criteria set by a single association. With this response, the Committee is explicitly acknowledging that, when assessing whether nominators met the legal requirements, it did not strictly apply the criteria prescribed by law, but instead sought to determine whether *"there is something in the statutes and projects that actually connects the organizations to children."*

The Rules of Procedure of the National Assembly of the Republic of Serbia, Article 44, explicitly define the scope of work of the Committee, stating, among other things, that the Committee is responsible for *monitoring the implementation of laws and other acts*<sup>10</sup>. Paradoxically, in its own work, the Committee on Culture and Information failed to adhere to the law and its provisions when determining whether the nominators for members of the REM Council met the required criteria—regardless of which candidates were being proposed.

The letter from the National Assembly also addresses the term "children," claiming that individuals aged 15 to 18 are not considered children but rather youth—a claim that contradicts the definition of a child under the Law on the Ratification of the United Nations Convention on the Rights of the Child. The Rules of Procedure of the National Assembly of the Republic of Serbia foresee the existence of bodies such as the Committee on the Rights of the Child, and the mandate of all committees includes mutual cooperation<sup>11</sup>. Accordingly, this segment of the letter issued by the Committee on Culture and Information is subject to challenge, especially since, in interpreting the terms "children" and "youth," the Committee should have first consulted and cooperated with the Committee on the Rights of the Child.

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<sup>10</sup> National Assembly of the Republic of Serbia, *Rules of Procedure of the National Assembly*, available on the website of the National Assembly of the Republic of Serbia: [http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-\(precisceni-tekst\)/ceo-poslovnik-\(precisceni-tekst\).1423.html](http://www.parlament.gov.rs/narodna-skupstina-/vazna-dokumenta/poslovnik-(precisceni-tekst)/ceo-poslovnik-(precisceni-tekst).1423.html), accessed on June 4, 2025.

<sup>11</sup> Ibid.

## Conclusion

1. The Professional Service of the Committee on Culture and Information of the National Assembly of Serbia did not verify the claims made by the organization Civic Initiatives, which stated that at least 17 associations that nominated Radunović and Janković as candidates do not meet the requirements that would qualify them as authorized nominators in the category of associations whose goals include child protection.

2. Instead of verifying the claims made by Civic Initiatives, the Professional Service of the Committee conducted an additional and detailed review of the documentation submitted by the associations that nominated Aleksić and Valić Nedeljković. In doing so, it determined that 27 out of 44 associations that nominated the aforementioned candidates did not meet the criteria to be considered authorized nominators, even though the Committee's analysis was largely inaccurate. Some examples of incorrect interpretations and misjudgments regarding the fulfillment of the criteria include:

- The association *Kokoro Bor* explicitly states in its statute that the goals of the association include the prevention of risky behavior among children and youth (...) as well as informing the public, especially children and youth, about developing and maintaining healthy behavior;
- The association *Libero* states in its statute that all of its goals are aimed at youth, but also explicitly notes that the term "youth" refers to individuals between the ages of 15 and 18, which according to the Convention on the Rights of the Child, could be interpreted as referring to children rather than young adults;
- The association *MisturaFina* states in its statute that one of its goals is the promotion of the Convention on the Rights of the Child – therefore, it is oriented toward the protection of children's rights;
- The association *Forca* lists in its statute that its goals include helping young people develop initiative, self-confidence, creativity, teamwork, and responsibility, explicitly stating that the term "youth" also includes children aged 15 to 18;
- The association *BUM* explicitly states in its statute that its goals include the protection and promotion of the rights of children and youth.

3. During the review of whether the nominators met the necessary requirements, the Committee on Culture and Information and its Professional Service applied the law selectively, subjecting only the associations that nominated Aleksić and Valić Nedeljković to an additional verification process. They did not clarify to what extent the associations that supported Radunović, Janković, Škorić, and Koka did or did not meet the legal criteria for authorized nominators using the same level of scrutiny applied to the other group. Although the very names of some organizations (e.g., Association for the Protection of Traditional Crafts "Lane", KK Singidunum [wheelchair basketball], Student Union of the Faculty of Civil Engineering Subotica, and others) suggest that their statutes and objectives are not related to child protection, these organizations were not reviewed for compliance with the criteria for nominators. This further highlights the Committee's selective application of the law.

4. The Committee's Professional Service is not familiar with the definition of a child as stipulated in the Law on the Ratification of the United Nations Convention on the Rights of the Child, thereby calling into question the work of numerous organizations whose core mandate is precisely the protection of this target group.



*“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*  
(Convention on the Rights of the Child, Article 1)

5. Given the evident selective application of the law and the lack of adherence to the legal procedure in the selection process for the REM Council by the Committee’s Professional Service, the conditions are not met for continuing the procedure in which the three groups of nominators from the category of associations whose goals include the protection of children are expected to reach consensus or vote to select two candidates to be proposed to the National Assembly.

6. The selection process for the REM Council in the category of associations whose goals include the protection of children must be repeated, with the prerequisite being an authentic interpretation by the legislator of the Law on Electronic Media regarding the terms “protection of children,” “association whose goals include the protection of children,” and the term “child” in accordance with international human rights and children’s rights standards. Additionally, the interpretation of whether nominators meet the criteria should be based on **equal, impartial, independent, and objective decision-making**, with monitoring in place over the entire process to ensure the legitimacy of the decisions made.