

# ASSESSMENT of Media System in Macedonia

**RECOMMENDATIONS**

The image features a hand holding a black microphone, positioned centrally. The background is a collage of newspaper clippings in Cyrillic script, with some text like 'ТАКРАШТА' and 'ПУБЛИКА' visible. A prominent red stamp with a white border and rounded corners contains the word 'RECOMMENDATIONS' in bold, white, uppercase letters, slanted diagonally across the microphone. The top of the image has a brown, torn-paper-like border.





# MEDIA, **PUBLIC MONEY** AND **ADVERTISING**

- NEED FOR REDEFINING THE APPROACH **page 7**

---



# **GUIDELINES** FOR AMENDMENTS TO **THE LAW** ON **AUDIO AND** **AUDIOVISUAL** MEDIA SERVICES

(IN TERMS OF POSITIONING AND INDEPENDENCE  
THE REGULATORY BODY IN THE AUDIOVISUAL FIELD)

**page 31**

---



# **REFORM** FOR **MACEDONIAN** RADIO TELEVISION

**page 53**

# Assessment of Media System in Macedonia (Recommendations)

Association of Journalists of Macedonia  
Gradski Zid, blok 13 1000, Skopje, Macedonia

TEL: 00389 (02) 3298-139

FAX: 00389 (02) 3116-447

EMAIL: [contact@znm.org.mk](mailto:contact@znm.org.mk)

[www.znm.org.mk](http://www.znm.org.mk)

# INTRODUCTION

Freedom of expression and freedom of the media represent cornerstone of the democratic society. The role of the media is to inform. Everyone has the right to receive and transfer information without interference by the authorities. This right is guaranteed by all relevant international documents ratified by the Republic of Macedonia, such as the Universal Declaration of the United Nations Human Rights 1948, International Convention on Civil and Political Rights of 1994 and the European Convention for the protection of human rights and Fundamental Freedoms from 1997.

Another important role of media is the control, which is accomplished by requesting the authorities to report on the manner of governance. The essential function of the media duty is to encourage debate in society on important issues of public interest. In addition, they play a representative role and to give voice to those who are most vulnerable in the society.

The Constitution of Republic of Macedonia guarantees civil rights and liberties and the rule of law. Also, Article 16 guarantees freedom of expression and media freedom. “The freedom of belief, conscience, thought and public expression of thought. The freedom of speech, public address, public information and the establishment of institutions for public information. It is ensured free access to information, freedom to receive and transfer information<sup>1</sup>.”

The same article guarantees the right on reply and correction as well as protection of sources of information. The last part of this article expressly prohibits censorship.

This liberal concept in the Constitution that guarantees freedom of the media is put in use into media legislation. Article 3 of the Law on Media<sup>2</sup>, inter alia, guarantees freedom to transfer information aimed at informing the public and the pluralism and diversity of media.

Similar guarantees of freedom of the media are provided in the Law on audio and audiovisual media services, adopted in 2013<sup>3</sup>. Article 3 of the Law insists on public broadcasting service, Macedonian Radio Television and regulatory media body to be transparent, independent, efficient and accountable. Established are the high professional standards and principles for journalists in the public service. Article 111<sup>4</sup> of the Law in detail process standards of the Council of Europe that journalists and editors of public broadcasting in the production of programs should be guided by the principle of truthfulness, impartiality

<sup>1</sup> Constitution of the Republic of Macedonia, <http://bit.ly/1PGRsX7>

<sup>2</sup> Law on Media, <http://bit.ly/1KCyZK1>

<sup>3</sup> Law on audio and audiovisual media services, <http://bit.ly/1Vg6Pg5>

<sup>4</sup> *Ibid*, page 31

and comprehensiveness of information. In the same article is incorporated the principle of political independence and autonomy of journalists, making a clear distinction between information and attitude, balance and political pluralism of views and no favor of certain views or interests.

But, the liberal Constitution for 24 years long democratic transition did not bring our liberal democracy or media system that will allow free and professional media in Macedonia.

The dramatic deterioration of media freedom in the most striking way is describing the drastic decline in the ratings of the country at the index of press freedom, the relevant international non-governmental organizations dealing with the protection and promotion of press freedom in the world. So, in four years, Macedonia fell for 83 places at the index of Reporters without borders<sup>5</sup> in relation to the freedom of the press, which is based on the performance of each country in respect of certain criteria, such as the presence of independence and pluralism of the media, respect the safety of journalists legislation and institutional environment in which media work. In 2009 the country was ranked at the 34 highest places, while five years later even dropped to 117, ranking after Tajikistan before Mali. Macedonia had bad rank and index from Freedom House press freedom in 2015<sup>6</sup>. For five years the country has fallen for 10 points, recording the biggest drop compared to all Balkan countries.

The reasons for the dramatic drop in media freedom should be steamed in the failure of the authorities to provide favorable environment for smooth work of journalists and the media. In order to silence independent and critical media, the authorities initiate court proceedings against media owners and journalists. In 2012, the owner of the first independent TV station A1, Velija Ramkovski was sentenced to 13 years in prison on charges of money laundering, and in 2013, the journalist Tomislav Kezharovski was sentenced to 4½ years in prison for allegedly revealing the identity of protected witness. In 2015, the Court of Appeal upheld the conviction and reduced the sentence to two and half years.

Except judicial proceedings against media and journalist, significant role for the fall of media freedom in Macedonia has the manner of financing the media and the work of the public broadcaster Macedonian Radio Television and the media regulator, the Agency for audio and audiovisual media services. In this analysis is processed legal framework that regulates this area, determined the current state and provides specific recommendations for improving the situation of press freedom.

---

<sup>5</sup> Reporters without borders, 2015 World Press Freedom Index, <http://index.rsfi.org/#!/index-details>

<sup>6</sup> Freedom House, Freedom of the Press 2015, <http://bit.ly/1OZ0Ffa>

*ZFM*

I. MEDIA,  
**PUBLIC MONEY**  
**AND ADVERTISING**  
- NEED FOR REDEFINING THE APPROACH

# CONTENT

1

State advertising in the media (the Government campaigns) in Macedonia \_\_page 9

2

The domestic production in the media and the Governmental influence \_\_page 13

3

Subsidies for the printed media - need and experiences \_\_page 16

4

Ban on political advertising in the media \_\_page 21

5

Arguments for the ban on political advertising in the media \_\_page 26

6

CONCLUSIONS AND RECOMMENDATIONS \_\_page 28



1

## STATE ADVERTISING IN THE MEDIA (THE GOVERNMENT CAMPAIGNS) IN MACEDONIA

For years, the Association of Journalists of Macedonia (AJM) and other civil society organizations in the media sector have criticized the state<sup>1</sup> and political advertising<sup>2</sup> in the media, believing that creates financial dependency and distortion of the media market. It is observed in number of international reports and the decline of media freedom is largely linked to Government advertising.

More specifically, this issue is covered in the reports of the European Union, the US State Department, Freedom House, South East Europe Media Organization (SEEMO) and Reporters without Borders (RSF). In the 2014 report of the European Commission for the Republic of Macedonia is suggested that Government advertising is considered for being indirect state control over the content produced by the media.

There are frequent criticisms that state advertising is done in **non-transparent manner** and depends on the particular political and business interests of the ruling political groups. Here, undoubtedly, raises the question which media receive funding and what **criteria** are used in the process. The lack of clear and consistent criteria for the allocation of state funds for public awareness campaigns in the media is believed to be one of the biggest problems threatening editorial freedom and integrity of the media.

<sup>1</sup> By “state or government advertising” we understand advertising of any segment from the central or local government in terms of Government policies, practices and programs, which is distinct from the “political advertising” or “advertising during elections.”

<sup>2</sup> By “political advertising” in this context we understand advertising of political figure, party, government policy or political issue or voting candidate and choice.

State advertising is often biased in favor of targeted media related to / or supported by the political groups in the Government. Critically minded media do not receive or have very small volume of the advertisements from state funds, regardless of viewership. In this regard, the remarks from the expert community that the state advertisements place content with political message, which coincides with certain policy of the Government, not with the **starting point of public interest**. As reminder for such examples are considered spots for encouraging multi children families, spots with messages against abortion, promotion of the project Skopje 2014 etc.

On the other hand, as long as the **Government continues to be one of the biggest advertisers** in the media, there is high potential and risk for corruption in this field. “The bigger share Government has in advertising in the media, the greater are the possibilities to influence the editorial policies of editor’s office<sup>3</sup>.”

The official figures from the media regulator show that the Government was the biggest advertiser in the private national TV stations in Macedonia in 2012. “State advertising, sponsorships, promotional campaigns and other financial income from the state budget in the media at national and local level represent significant part of the overall advertising market<sup>4</sup>.” As data from the Analysis of the broadcasting market in 2013<sup>5</sup> show the Government is at the second place on the list of most significant advertisers at TV stations in 2013. Additionally, in the Matrix on informing the citizens<sup>6</sup>, the Government informed of, as said, “implemented campaigns for informing citizens on the importance and significance of specific policies and measures for their implementation and presentation.” In this report it is said that the Government in 2012 has realized 6.615.609 euro, 7.244.950 euro in 2013 and the first 6 months of 2014 has realized 3.985.500 euro or nearly 18 million euro total. This proves that the Government has significant stake in the financing of

<sup>3</sup> Association of Journalists of Macedonia (2015), *Public Funds in the media, Skopje*

<sup>4</sup> Trpevska, S., Micevski I. (2014) *Media integrity matters, Macedonian Institute for Media.*

<sup>5</sup> Available in: [http://www.avmu.mk/images/Analiza\\_na\\_pazarot\\_2013.pdf](http://www.avmu.mk/images/Analiza_na_pazarot_2013.pdf). Accessed on July 24, 2015.

<sup>6</sup> <http://vlada.mk/node/9241>.

private broadcasters on annual base, especially if it is considered that in 2013, total revenues<sup>7</sup> of private terrestrial broadcasters were 1.290,79 million MKD (around 21 million euro).

According to data from AGB Nielsen and market analysis from the Broadcasting Council in terms of share of state advertising in the gross cost for advertising in the television sector<sup>8</sup>, it is on **first place** in 2012, **second place** in 2008, **fourth** in 2011, **fifth** in 2009.

In Analysis from 2014 these data are lacking, as well as information on the ratings of private national broadcasters with terrestrial license<sup>9</sup>. That, in turn, supports suspicions and assumptions that the Agency for Audio and Audiovisual Media Services (AAAMS) intentionally are not revealing data with aim to conceal the fact that the Government of Republic of Macedonia is still one of the biggest advertisers in the private media. This additionally reduces the transparency of the media regulator, which however, represents additional problem. Even in the European Commission Report for 2012 it was indicated that the Agency (then the Broadcasting Council) needs to show that uses transparent approach and that are necessary continuous efforts to address the issue of transparency of Government advertising.

Financial incentives and state advertising in media is continuously used as tool to influence the media, and thus influence their professionalism and credibility. The allocation of public funds in the media has become powerful tool for censorship on journalists and the media. It is true that many media depend on state funds for advertising, while those that are not supported with Government funds, face pressure in terms of survival.

In relation to the financial support of the media from public funds, there are three **separate instruments**. Both apply to all types of private media (government campaigns and 50% covering of the cost for domestic

<sup>7</sup> Market Analysis for 2013, from AAAMS [http://avmu.mk/images/Analiza\\_na\\_pazarot\\_za\\_2013.pdf](http://avmu.mk/images/Analiza_na_pazarot_za_2013.pdf)

<sup>8</sup> Trpevska, S., Micevski I. (2014) *Media integrity matters*, Macedonian Institute for Media.

<sup>9</sup> As reason for this, in the Analysis is stated that significant part of the industry do not express confidence in the measurements from the agency AGB Nielsen Skopje, which actually is part of the only group D Nielsen Company and member of the family that has more sister companies operating in more than 30 countries on 5 continents.

production of documentary content in commercial broadcasting companies that broadcast television programming service of general format at the national level through transmission capacity of digital terrestrial multiplex), and the third tool, only applies to public broadcaster, MRTV respectively<sup>10</sup>.

This method of granting state funds faced criticism from the Association of Journalists of Macedonia, as well as other civil society organizations from the media sector, who feel that in this manner, continues Government control over the media. Since the beginning, subsidies were seen as direct state interference in the media, which may further jeopardize their independence at time when media community fights against the use of state advertising as media control<sup>11</sup>. There are estimations that the state subsidies might be convenient way for imposing Government political influence. Association of Journalist of Macedonia this year tried to obtain data about the distribution of funds on this basis, but failed which indicates that the process is not transparent.

At the public debate organized by AJM on 1<sup>st</sup> of July this year, Minister of Information Society and Public Administration, Ivo Ivanovski said that the Government has decided temporarily to suspend its advertisements in the media and that the measure will last until are established criteria for budget funds allocation. This measure, according to the Ministry, does not apply to free of charge public campaigns. This measure is positive, but there is no guarantee that the same, problematic practice of Government advertising without clear and transparent criteria will not continue. Due to these reasons, AJM believes there is need for legal assurance that this practice will be no longer used. On the other hand, if there is need to promote issue of public interest, it is necessary to establish criteria for this, i.e. the manner in which the whole process will run and then to provide free of charge advertising on public service.

<sup>10</sup> *In the case of MRTV, the Government directly invests in the budget of MRTV and the state contribution is not fix amount for every year i.e. it varies depending on the financial needs or debt of the public broadcaster. On average, each year the Government contributes with 25 percents of the total budget of the MRTV on different grounds. On the other hand, the increase in the collection of fee is unrealistically shown i.e. collection from old debts is shown as increase in the collection for current year.*

<sup>11</sup> *"Selmani: The state inserts money in the private TV station" Nova TV, August 22, 2014. Available at: <http://www.novini.mk/read/294628/selmani-drzhavata-vleguva-so-pari-vo-privatnite-televizii>. Accessed on July 25, 2015.*

2

## THE DOMESTIC PRODUCTION IN THE MEDIA AND THE GOVERNMENT INFLUENCE

The second instrument for financial support with public money in media is coverage of fifty percent of the costs for domestic production of documentary content in commercial broadcasting companies that broadcast television program service of general format at the national level through transmission capacity of digital terrestrial multiplex, according to the amendment of the Law on audio and audiovisual media services (Article 92, paragraph 10). The new request to the commercial TV stations with national permission and to the public broadcaster MRT i.e. to produce and broadcast certain quota of domestic movie and documentary programs<sup>12</sup> was introduced in 2014 with Government amendment to the Law of 2013. That, according to all explanations was done in order to stimulate domestic production.

The main criteria domestic film and documentary programs should meet under Article 92 (paragraph 11) of the Law, are originality, authenticity and quality of the script; how realistic is the implementation of the project taking into account the script, budget, complexity, plan and deadlines for recording; and the technology for the production of domestic movie programs. The Law introduces penalties for broadcasters who will not meet the requirements

**12** According to Article 92 (paragraph 8) from the Law on audio and audiovisual media services, "broadcasting companies that broadcast television program service with general format at the state level through the transmission capacity of digital terrestrial multiplex, are obliged to produce and broadcast at least 10 hours of domestic documentary program in the period from 7.00 to 23.00 am, no later than November 25 of the current year, a the public broadcasting service at least 30 hours of domestic documentary, from 7.00 to 23.00 am, no later than November 25 of the current year.

for the production of programs from domestic origin and goes to the extent that the Director of the AAAMS, according Article 23 (paragraph 2), submits request to initiate infringement proceedings without sending warning to the broadcasters.

The body that decides, which media will receive funds is the **Inter-ministerial Commission** established by decision of the Government. The Commission consists of seven members and their deputies. In this body are representatives from the Ministry of Finance, Ministry of Information Society and Administration, Ministry of Culture, the Office of Prime Minister, the Public Revenue Office, the Agency for Film of the Republic of Macedonia and the Agency for audio and audiovisual media services. As noted, in this Commission are prevailing members who are nominated by institutions of the executive branch and therefore, are founded fears that decisions about what projects will be funded and which media will be supported is under political influence. Apart from the risk of political influence on the decisions of the Inter-Ministerial Commission as additional problem, arises the lack of expertise of the members i.e. it cannot be expected that civil servant from MISA, the PRO or the Prime Minister's Office to be experienced in the field of domestic production.

Newly established financial mechanism and its effects have been met with divided opinions among representatives of the media community and the media industry. While TV stations have estimated this as opportunity to develop its domestic production, media community fears that in this way the Government will buy the favor of the media. And, it will affect the quality of media content and will limit the public's right to be informed.

Association of journalists since the beginning of last year sent statement to the media and said: "Instead of covering the cost of production for this program by fifty percents, the Government can reduce the number of hours of national television for domestic production by half<sup>13</sup>." In relation to the criteria in the Law, the Centre for Development of Media believe that "recent legislative amendments are enabling the Government to have the final word

<sup>13</sup> *AJM: Amendments to Law on media - step forward in content improvement,* TV 24 News, January 23, 2014, available at <http://24vesti.mk/znm-izmenite-za-mediumskite-zakoni-chekor-napred-vo-podobruvanje-na-sodrzhinata>. Accessed on August 28, 2015.

in determining the maximum amount of compensation for the broadcasters for creating domestic documentary and feature program. They imposed lump criteria to assess whether broadcasters are entitled to compensation for costs in the amount of 50%<sup>14</sup>. “Currently, according to the Government’s decision<sup>15</sup> for determining the total subsidies for reimbursement of 50 percents of the domestic documentary and feature program, five national TV with terrestrial license receive subsidy of 2.254 euro per hour for production of documentaries and 5.548 euro per hour for the production of feature films programs. This means that these five televisions per year can receive up to 66.000 euro i.e. total over 330.000 euro from the budget of the Ministry of Information Society and Administration for 5 hours documentary or for 10 hours feature program, which represents 50% of the allocations of Government to produce documentary or feature program. In addition, it is not clear, by which criteria the Government defines the cost of production for one hour documentary and feature programs, given that there is variety of national television and the different nature of the program, which depending on the quality and nature of the production of one hour, could be much less or much more.

The current legal solution is increasingly burdening private national media every year. Thus, according to the Law (Article 92) the broadcasters are obliged to broadcast at least 30% of program originally created in Republic of Macedonia in Macedonian language or the languages of minorities living in the Republic of Macedonia, starting from 2014. From the beginning of 2015, the obligation of 30% was increased to 40%. From 2016, the obligation of 40% would be increased to 50%. As one of the possible solutions that could reduce the risk of Government influence with public funds on private media, is not to provide support with means for domestic production, except for the public service, while reducing the obligation for broadcasters to broadcast programs originally produced in the Republic of Macedonia.

---

**14** Center for Media Development, Monitoring implementation of media legislation, the Ministry of Information Society and Administration, the Parliament of Republic of Macedonia, the Agency for Audio and Audiovisual Media Services and the Macedonian Radio Television - Third Quarterly Report for 2014 (August - October), available at [http://mdc.org.mk/wp-content/uploads/2014/11/CRM\\_Izvestaj\\_Monitoring-na-AVMU-MIOA-MRT-sobranie-i-mediumi\\_-Okt-2014.pdf](http://mdc.org.mk/wp-content/uploads/2014/11/CRM_Izvestaj_Monitoring-na-AVMU-MIOA-MRT-sobranie-i-mediumi_-Okt-2014.pdf). Accessed on 29 August 2015.

**15** Decision published in the Official Gazette 138/14 <http://www.slvesnik.com.mk/Issue/s/50db360db2d34e499d1ee8b2aaaf788f.pdf>

3

## SUBSIDIES FOR THE PRINTED MEDIA - NEED AND EXPERIENCES

European practice is to subsidize printed media, but not the broadcasters and virtually, there is no model for subsidizing broadcasters in Europe. Following the view about the abolition of Government advertising and financing of domestic production, it appears that the use of broadcast media does not mean promotion of the public interest and encouraging domestic production at these media, but control of the media and their content.

In the case of **printed media**, subsidies are justified as measure in several countries - EU members, especially bearing in mind that in recent years was significantly reduced circulation of newspapers at global level. "To meet the challenges, the papers are expected to invest in new technology and restructure, but although competition is fierce, the newspapers continue to face competition in the online media<sup>16</sup>."

Media concentration is the other reason that justified subsidies for the press. Moreover, cultural diversity is another reason why it is stressed the need for subsidies in the print media. This is true especially if we consider the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Subsidies could serve as such instrument for policy in the field of culture. Such need was emphasized at the Third meeting of Participatory Forum organized by the Agency for the rights of the communities in the Republic of Macedonia entitled "Exercising the right of access to the

<sup>16</sup> Alonso, I.F., et al (2006) *Press Subsidies in Europe*, Generalitat de Catalunya



media and the right to inform the local communities”, organized on November 16, 2014 in Skopje.

In terms of applied systems for granting subsidies, basically, are applied three main models:

- The most widely used system is one in which Government body in charge of the domain of culture is responsible for the management and control of the overall system for awarding grants. This is the case with *Belgium, Finland, France, Luxembourg, Norway* and *Sweden*. However, it should be noted that in many countries the Government relies on the advisory role of the committees, which means that alternative views in the process must be heard, though their views are not binding. For example, in *France* operates the model where the Commission is consisted of six governmental and six representatives of the media, which play role in determining subsidies for modernization and diversification of the press to cover the multimedia component. In *Finland* works Commission for press subsidies, consisted of maximum of 12 representatives from different social and political groups that bring proposals regarding selective subsidizing from the Ministry of Transport and Communications.

- Quite different from this system is the one in *Austria*, where Independent Broadcasting Authority and Telecommunications (KommAustria) awards subsidies for the printed media. This body must consult with the Advisory Committee before adopting decision for the request for subsidies. Decisions are made based on the evaluation report by the Commission for printed media regarding the fulfillment of the requirements by the applicants. It consists of seven persons: the Prime Minister appoints two members, two members are appointed by the Austrian Newspaper Association and the trade union of journalists working in daily and weekly papers appoints another two members. These six persons elect a chairperson. The report of the experts is not binding, but the body for Communications follows the opinion of the Commission in almost all cases.

- The third model is system of subsidies management that is in the hands of body that has degree of independence from the Government that is part of the Ministry, despite the fact that the Government appoints its members. In *Denmark*, however, the National Union of Journalists and the Association of Danish journalists appoint two of the members of the Commission.

*Indirect subsidies* to the printed media are applied in several countries. The most common form of instrument for support of the printed media from financial point of view are tax incentives. In several European countries printed media benefit from reduced VAT rates on the sale of newspapers and magazines (e.g. in Belgium, Norway, Denmark and the UK such sale is fully exempt from VAT). “Other measures that are used as indirect support for the printed media are reduced tariffs for telecommunication services, electricity, paper and transport. Then, there are other measures, such as subsidies for the news agencies, news schools, journalistic research, etc<sup>17</sup>.”

In addition follows chart, which gives comparative view on the VAT rate in the European countries and the reduction that applies to printed media:

		Normal VAT rate	VAT rate on the sale of newspapers
1	Austria	20%	10%
2	Belgium	21%	0%
3	Denmark	25%	0%
4	Finland	24%	10%
5	France	19.60%	2.10%
6	Germany	19%	7%
7	Ireland	23%	9%
8	Italy	21%	4%
9	Netherlands	21%	6%
10	Norway	25%	0%
11	Sweden	25%	6%
12	Switzerland	8%	2.50%
13	UK	20%	0%

Source: European Commission (2013)

<sup>17</sup> Schwelzer, C., et al (2014) *Media Policy Brief 11: Public Funding of Private Media*, The London School of Economics, available at <http://www.lse.ac.uk/media@lse/documents/MPP/LSE-MPP-Policy-Brief-11-Public-Funding-Private-Media.pdf>. Accessed on August 23, 2015.

Some countries, however, have *direct subsidies* for the printed media. The most common is aid for production for selected media. The purpose of such subsidies is sustainability of the media that are facing difficulties in the advertising market. Through this support is protected i.e. enhanced media diversity and pluralism. In other countries are supported newspapers in languages of minority communities (for example, in Finland). Direct support for the printed media and aid distribution (e.g. in Austria and Sweden), help for source (France, Italy) or support for internal training of journalists. In some countries (Canada, Denmark, the French Community in Belgium, France, Netherlands) subsidies are used for support of establishment and reorganization of newspapers.

**France** is leader in Europe in terms of protectionist policy towards the printed media. The main objectives of the policy for subsidies are promotion of circulation, protection of pluralism and modernization and diversification of media companies to incorporate the dimension of multi-media<sup>18</sup>. Thus, in this country subsidies receive two most eminent newspapers “Le Monde” and “Le Figaro”, as well as the Catholic daily “La Croix” and communist newspaper “L’Humanité”. In France, the indirect subsidies include concessions on VAT and especially important is the range of measures for tax incentives for publishers of newspapers, as well as subsidies that are designed for increasing the readership of print media.

In **Norway**, the state finances printed media since 1935, which guarantees the presence of newspapers in all regions of the country. Since then, Government policy for subsidizing printed media further strengthened and supported the industry in three ways. Two of them relate to the economic benefits i.e. tax exemptions and direct state aid for the printed media. The third measure aims to prevent excessive concentration of ownership in the hands of few operators. State intervenes and maintains balance by granting subsidies to local media for regular and timely information to the public. In Norway, grants are awarded to newspapers that are publishing in the languages of minorities.

---

<sup>18</sup> *Ibid.*

In **Austria**, subsidies are being awarded since 1975. Since then, the subsidies are awarded to daily and weekly newspapers that meet the following conditions:

- If they address issues that are transcending local interest in the field of politics, economy or general culture and, therefore, serve as political, economic and cultural information and formation of public opinion.
- Subsidized news products must not be advertising flyers or press organs of interest groups.
  - Must not only be of local interest and must be distributed or to be of interest and importance of at least one province.
  - They must be printed and published in Austria.
  - Must be printed at least 50 times per year and to be sold per copy or by subscription.
  - Must have been regularly printed for one year before the period of application and must have met the conditions for subsidizing for that year.
  - The weekly newspapers must have at least two or three journalists with full time employment<sup>19</sup>.

Since 2004, with the Law on subsidies for the printed media are provided numerous new and additional measures for strengthening the quality and contributions to the future of this kind of media. Given the fact that the training of journalists and information firsthand are established as essential factors for the quality of news content, the publishers of the corresponding daily and weekly newspapers receive compensation for costs of recruitment and training of young journalists employed on full time basis and costs for hiring correspondents abroad. In addition, are awarded subsidies for the distribution of daily and weekly newspapers and for protection of the diversity in regional daily newspapers. Publishers who provide schools with free daily and weekly newspapers may receive compensation up to 10 percents of the regular retail price. It is also financed the promotion of research projects.

<sup>19</sup> Murschetz, P. C. (2013) *State Aid for Newspapers: Theories, Cases, Actions*, Springer

4

## BAN ON POLITICAL ADVERTISING IN THE MEDIA

The Association of Journalists of Macedonia for a period has been committed to the abolition of political advertising in the media. Through this, in fact, would be abolished the negative practice of using money from the Budget for advertising and campaigns that often appear to be intended for propaganda purposes, not for matters of public interest.

Political advertising in the media is especially acute during the election campaign as some of the media give very large discounts on political parties. Thus, they virtually free of charge broadcast party - political advertisements. “Later, these discounts or unpaid debts are presented as donations to the election account of the political party. However, after the election these media will be part of the list of the most desirable media for state advertising<sup>20</sup>.” In the publication “Media integrity matters” is contained information that in the financial report o coalition of *VMRO-DPMNE* for 2013 is presented list of donors that includes 33 television stations, three radio stations and printed media published by Media Print Macedonia. “Out of them, the three largest donors are *Sitel TV* (9.870.000, 00 MKD or 160.489,00 euro), *Kanal 5* (8.900.000, 00 MKD or 144.715,00 euro) and *Alpha TV* (4.700.000, 00 MKD or 76.423,00 euro)<sup>21</sup>.” As a reminder, TV Sitel offers major discount in the prices in the offer to the SEC for broadcasting paid political advertising for the parliamentary elections in 2014<sup>22</sup>.

<sup>20</sup> Trpevska, S., Micevski I. (2014) *Media integrity matters*, Macedonian Institute for Media.

<sup>21</sup> *Ibid*.

<sup>22</sup> Price list is published at the website of the SEC, available at <http://www.sec.mk/files/izbori2014/parlamentarni/cenovnici2/Sitel.PDF>. Accessed on September 5, 2015.

Therefore AJM, IUJMWM and MIM emphasize the need for legal prohibition with which the media will not be allowed to be donors to the political parties as “a mechanism for direct bribe of the media and abuse for political purposes<sup>23</sup>.” And the Civil Association “Most”, which as observer monitors the elections in the country, at the recent press conference called for ban on the media to be donors to political campaigns, believing that in this way is bypassed the right of participants in the electoral process to balanced approach in the paid political advertising.

Advertisements and campaigns, undoubtedly, create clientele relationship between Government parties and broadcasters. The media become dependent on Government subsidies, and provide advertising space and spots for much lower price than the actual price lists by which are created corruption links. This is especially emphasized during election campaigns, when they provide huge percentage of its program in favor of political parties that have the authority to return the debt post-election i.e. Government with private media with public funds through government campaigns, advertisements and support for domestic production. In addition, through the support of domestic production is pushed the content at the national TV that may not be in the public interest, but in the interests of particular party ideology by producing documentaries, which highlight certain persons and certain part of Macedonian history. In addition, in the recommendations of the report of the expert group led by former senior European Commission Reinhard Priebe<sup>24</sup>, it is said that all media should be free from political pressure and it is not acceptable to buy political support through their funding.

The reason for the abolition of political and state advertising in the media, according to Professor PhD. Snezhana Trpevska is simple. “Money create unbreakable symbiosis between political parties (whether in power or not) and the media. Within this symbiosis, the journalism is destroyed<sup>25</sup>. “

<sup>23</sup> Press of AJM, IUJMWM and MIM: Without donations for political advertising for elections, available at <http://znm.org.mk/drupal-7.7/mk/node/475>

<sup>24</sup> The document is available [http://ec.europa.eu/enlargement/news\\_corner/news/news-files/20150619\\_recommendations\\_of\\_the\\_senior\\_experts\\_group.pdf](http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf). Accessed on August 25, 2015.

<sup>25</sup> PhD Snezhana Trpevska: Without independent regulator there are no independent media, *Utrinski Vesnik*, July 28, 2015, available at <http://www.utrinski.mk/?ItemID=4143B4F42B125445B1E422348C33D62E>. Accessed on August 25 2015.

Regulation of the **political advertising** in the media is one of the most difficult issues that numerous countries in Europe and the world face with.

Most European countries - EU member states have abolished the paid political advertising on radio and television. That is the case with Belgium, Denmark, France, Germany, Ireland, Malta, Norway, Portugal, Sweden, Switzerland and the UK. Several countries in Central and Eastern Europe such as the Czech Republic and Romania also have ban on paid political advertising.

Paid political advertising is allowed in several countries of Central and Eastern Europe, such as Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Poland and the Baltic states i.e. Estonia, Latvia and Lithuania. In some countries, such as Bosnia and Herzegovina (60 days before the election) and Croatia is permitted paid political advertising only during elections.

In the **UK** the restriction applies not only to political candidates and parties, but also all kinds advertising aimed at influencing the public opinion and is the subject of controversy in public. Under the Great Britain Communications Act 2003, the parties were allowed with segments of free airtime on terrestrial television channels and national radio stations before election (usually lasting five minutes) through using formula determined by Parliament.

In February 2000, the **Parliament in Italy** passed Law that is banning paid political advertising on television during the election campaign. Under the new law, “political advertising can only be broadcasted for free of charge with equal opportunity for all candidates and political parties. Public broadcasting channel RAI is required to broadcast political advertisements, while private stations can refuse it... Out of the period for election campaigning, the political advertising should be free to broadcast on the public broadcasting stations<sup>26</sup>. “

Nearly for three decades, the European Court of Human Rights continually argues that there is “little room” for restrictions on “political speech” following the Article 10 from the European Convention on Human Rights, which guarantees freedom of expression.

---

<sup>26</sup> Plasser, F., Plasser, G. (2002) *Global Political Campaigning: A Worldwide Analysis of Campaign Professionals and Their Practices*, Greenwood Publishing Group.

However, in 2013, the Court was called upon to consider the case for the ban on political advertising on television, exactly in the UK<sup>27</sup>. The case began in 2005 when the Organization for animal rights Animal Defenders International (ADI) has published report on the abuse of primates for research purposes and in the entertainment industry. The report was part of campaign of Animal Defenders International and in order to attract public attention to this campaign was prepared television advertisement of 20 seconds. The organization approached for approval to the Centre for approval of advertisement in broadcasting, which concluded that such advertising violates the prohibition from the Communications Act for advertisements that are “directed towards political end.” Relying on Article 10 from the European Convention on Human Rights, the Organization complained that had been unjustifiably prevented from advertising on television or radio, while submitting appeal to the European Court of Human Rights in 2008. The result of the procedure is that the Court, by majority vote, determines that the ban on political advertising in the case of Animal Defenders International against the UK is not breach of Article 10 of the European Convention.

The Court rejected the arguments of the organization, noting that:

- *Electronic media are influential and their effects are immediate and powerful. Advertisers, aware of the benefits of advertising on electronic media, continue with willingness to pay large sums for such advertisements, which go beyond the ambitions of NGOs sector to participate in the public debate.*
- *With less restrictive bans, is increased the possibility for abuses and waywardness, especially through the Bodies with specific agendas led by social advocacy groups that are created for specific goals and through which is occupied a significant portion of the advertising space.*

<sup>27</sup> Case ANIMAL DEFENDERS INTERNATIONAL v. THE UNITE KINGDOM, European Court of Human Rights, 2013, available at [http://hudoc.echr.coe.int/fre?i=001-119244#{"itemid":\["001-119244 "\]}.](http://hudoc.echr.coe.int/fre?i=001-119244#{) Accessed on August 29 2015.



In **Ireland** the ban applies to all types of advertising that can be said that are political advertising and to all groups that by its structure are political. In this sense, such prohibition applies to all broadcasting media and is not limited to election campaigns or ballot referendum. In **Israel**, the ban is permanent and applies to all political parties and other interest groups. In **France**, the prohibition applies to political parties and candidates, but also to any organization whose advertisements are directed towards reaching political end.

Countries that prohibit political advertising on radio and television send petition to the electronic media to provide free space for political parties and / or candidates.

There are countries where political advertising is allowed, but is regulated. For example, in **Canada**, the Canadian Radio-television and Telecommunication Commission requires the media provide time on equal basis. If one party gets free space or opportunity for political advertising, this option should be given to all opponents<sup>28</sup>. This principle of equality applies to prices, duration, schedule and approach in advertising.

Countries that allow paid political advertising have introduced certain restrictions so that the practice is not necessarily discriminatory. All parties are given equal opportunities. However, such “equality of opportunity” is only real when all parties have the necessary funds available to purchase the same amount of space. However, that is not the case in Macedonia.

Following the example of Great Britain, political advertising during the election is allowed on the public service, in this case the MRT.

---

<sup>28</sup> Canadian Radio-television and Telecommunication Commission, *Broadcasting Information Bulletin CRTC 2011-218*, available on <http://www.crtc.gc.ca/eng/archive/2011/2011-218.htm>. Accessed on August 27 2015.



## ARGUMENTS FOR THE BAN ON POLITICAL ADVERTISING IN THE MEDIA

The explanation that have most of the EU countries that do not allow paid advertising on TV or radio is that there is risk, certain groups with greater power to gain control of the air, which would distort the political debate. Due to political influences, the media often lose independence and cannot maintain the critical distance in terms of political marketing and public relations nor can perform their analytical -commentary role in its name or on behalf of the public.

Paid political advertising provides politicians with greater financial power to buy more space / time, and thus to be more visible and to lead the campaign that far exceeds the financial strength of the others. Accordingly, the “political advertising that is not governed by regulations leads towards personalization of the campaign; candidates can rely on media manipulation rather than the coherence of their election platforms<sup>29</sup>.” The experiences from the countries that have allowed political advertisements point to growing need for fundraising, particularly due to the high cost of advertising in the electronic media, as well as continuous increase in the volume of political advertising. “The policy seems to be turned into race for financial armament. Politician in debt with his sponsor<sup>30</sup>. “

<sup>29</sup> Lange, Y. (2002), *Media and Elections*, Council of Europe, available at [http://www.coe.int/t/dghl/standardsetting/media/Doc/Translations/Serbian/Media&Elections\\_sb.pdf](http://www.coe.int/t/dghl/standardsetting/media/Doc/Translations/Serbian/Media&Elections_sb.pdf). Accessed on August 23 2015.

<sup>30</sup> *Ibid.*

Anchor and correspondent for CNN Jim Clancy at the Session of the World Congress of the International Press Institute (IPI) concludes that “the sound of money, especially the sound of government funds in the media, can be sweet. In several occasions, money help to rise new, independent media. However, the sound of money could be the sound of journalists being sold, forced to stand in the corner<sup>31</sup>.”

Cases in which the media are dependent on government advertisements lead to perception among the public that there is no credibility in their reporting. Having idea that the information is incomplete or incorrect voters ignore such informing and are not able to make mature political decisions. In other words, the voters are incapacitated to effectively monitor political actors.

The increased presence of the Government at the advertising market weakens the voice of independent media. The practice of political advertising, according to estimates, is transformed into the policy of “carrot and stick” in exchange for favorable reporting and there are no objective parameters for the distribution of public funds or appropriate control over the manner in which are spent the received funds.

---

**31** Hunt, N. (2012), ‘Ka-Ching!: Avoiding Manipulation through Government Advertising, Public Money Should Serve Public Interest’, International Press Institute, available at <http://www.freemedia.at/newssview/article/ka-ching-avoiding-manipulation-through-government-advertising.html>. Accessed on August 30, 2015.



## CONCLUSIONS AND RECOMMENDATIONS

Considering the above-mentioned findings, and in direction to resolve the identified issues and challenges, the Association of Journalists of Macedonia offers the following recommendations and conclusions:

*The Government, local government, state institutions and public enterprises with legal amendments to ban advertising and presence with public campaigns at the private broadcast media.*

Thus would overcome the continuing dependence of private broadcast media from the state budget and would overcome competition among media owners to obtain larger share of state funds.

*Reducing the level of domestic production in the private broadcast media for 50%.*

AJM urges the Government to abandon the intentions to finance domestic production of private broadcasters. This attitude is result of the evaluation that Government advertising and financing of domestic feature and documentary program at the national and private television is instrument with which the Government can buy the affections of these media and to affect the quality of media content and is restricting the right to public to be objectively informed. Rather than covering the production costs for this program with fifty percents, the Government can reduce the number of hours of national television for

domestic production by half. Current legal requirements to broadcasters impose serious financial implications, which call into question the very survival of the media.

***Developing model that would allow subsidizing the printed media.***

Support for selected printed media, based on clear and consistent criteria, is the most appropriate way to maintain pluralism and editorial independence in the media. Given that the granting subsidies is one of the most delicate aspects in programs for public support of the media, the Body for granting subsidies needs to be free from political influences and pressures. Independent granting subsidies may be guaranteed by defining precise criteria about eligible candidate for such support. Thus, decisions will not only be clear and understandable, but could not be abused for punishing critical media reporting on Government.

***Prohibition for political i.e. electoral advertising in private broadcasting media nationwide.***

The Association of Journalists of Macedonia advocates for abolition of paid political advertising in private broadcasting media nationwide. This measure would prevent the misuse of media especially during the elections due to exercising party - political interests. The abuse of media, especially during elections, would seriously jeopardize the election process, which in turn is in line with the EU warning, not to allow any political influence on the media. During the election mostly emphasized is the appearance of giving discount by the media, and they become “hostage” of the political parties which, in turn, through this mechanism make pressure and influence editorial policy. Political parties thus, buy space in the media for prices that are much lower than the market, and all that provides great influence on the media market and the manner of reporting. Media discounts as already mentioned earlier, later are represented as donations to the election account of the political party





**II. GUIDELINES FOR AMENDMENTS  
TO THE LAW ON  
AUDIO AND  
AUDIOVISUAL  
MEDIA SERVICES**

*( In terms of positioning  
and independence  
the regulatory body in  
the audiovisual field )*

# CONTENT

- 1 Organizational Set Up of the Regulatory Body \_\_page 35
- 2 Nomination and Election of the Regulatory Body Members \_\_page 37
- 3 Authorization and Competences \_\_page 42
- 4 Reporting and Transpiration \_\_page 47
- 5 Funding of the Regulatory Body \_\_page 49



# INTRODUCTION

The independence of the regulatory body in audiovisual domain is of crucial importance for the independence of the audiovisual media. The manner in which the regulatory body members are proposed and elected, its powers and professional profile, as well as the competence of the leadership, their professionalism and independence of the political parties and the industry- are of key importance. In the three developments phases of the legal regulations in Macedonia, the provisions about the set up, the election and the functions of the regulator is constantly being upgraded and improved, but his/her independence in practice is still a pending problem emphasized in all the European Commission Reports. The 2005 Law introduced new principle of election by the so called authorized proposing party or proposers who, following transparent and democratic procedure propose to the Assembly distinguished qualified individuals with remarkable experience, rewards and special achievements in their field of expertise and who (in line with the Law) should be autonomous from the ruling power, the political parties and the media industry. However, this procedure was not followed in practice, meaning that in most of the cases candidates who were close to political parties were proposed for election, not taking into account their professional competence, experience and achievements. Despite the fact that the legal provisions of the two recent laws (2005 and 2013) defined the independent position of the regulator, still practice shows that he/she, in most of the cases was politically inclined and failed to counter any political or other influence.

The 2014 EC Progress Report, in the part 4.10 stipulates that the “political and financial independence” [of the regulator] and of the public broadcasting service are not firmly established” and the Conclusion points out that “steps must be taken to guarantee the independence of the public broadcaster and the media regulator”. The EC Document: *Urgent Reform Priorities for the Former Yugoslav Republic of Macedonia*<sup>1</sup>, of June 2015, inter alia, emphasizes that it is necessary to “provide sufficient autonomy of the independent regulatory, supervisory and control bodies not only theoretically, but in practice as well, so that they could function efficiently and without any political pressure...” Having this in mind, the aim of these Guidelines in one sublimated form to present the most important issues in the current set up and functioning of the regulator and to propose possible solutions for urgent amendments of the existing legal regulation in order to “depoliticize” and liberate the regulatory body from any influence. The Council of Europe Recommendation No. (2000) 23 is used as a basis to explain the context and the suggested solutions regarding the independence and the functions of the broadcasting regulatory authorities<sup>2</sup>, the expertise on the new law made by Council of Europe, OSCE, the Article 19 and other international organizations, EC Progress Reports so far of the RM, the remarks of the community of journalists provided in reference to the draft –text of the law and many other documents and publications.

---

<sup>1</sup> See: [http://ec.europa.eu/enlargement/news\\_corner/news/news-files/20150619\\_urgent\\_reform\\_priorities.pdf](http://ec.europa.eu/enlargement/news_corner/news/news-files/20150619_urgent_reform_priorities.pdf)

<sup>2</sup> See: [http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec\(2000\)023%26expmem\\_EN.asp](http://www.coe.int/t/dghl/standardsetting/media/doc/cm/rec(2000)023%26expmem_EN.asp)

1

## ORGANIZATIONAL SET UP OF THE REGULATORY BODY

### STANDARDS:

In the Explanatory Memorandum of the Council of Europe Recommendation No. 23 (2000) it is emphasized that regulatory bodies in different countries may be organized around two models: (1) larger bodies, which are made of representatives of various social groups mostly nominated by the civil sector; they do not have to be experts, are not professional employees of the body, they are external members and do not have great powers of making decisions; or (2) smaller bodies, which do not represent the overall social sector, but consist of independent and established experts, most often elected by the legislative power, with longer mandate in the body, most frequently professionally engaged in the body and with greater capacity for making decision.

### LEGAL PROVISIONS AND THEIR APPLICATION:

In the first two laws (of 1997 and 2005) the regulatory body (The Broadcasting Council) was envisioned according to the second model as a small professional body composed of distinguished experts or professionals from different field of expertise. The Council members of the first set up (in line with the Law of 1997) were engaged on freelance basis as external members, except for the President and the Deputy President, who were employed. The Council as a whole made the decisions. The Council in its second set up (in line with the Law of 2005) was organized around the same model, but all the members were regularly employed in order to provide equal decision-making approach. With the Broadcasting Law amendments of 2005, made in August 2011, the number of members was increased from 9 to 15, which completely changed the body model envisaged in the previously two mentioned laws as expert-level body.

In the new Law on Audio and Audiovisual Media Services of 2013, the organizational set up of the body was completely changed and two levels of decision-making were

introduced: the Agency Council (consisting of 7 members) and Agency Director. The pass over to two-level decision making is designed in line with the organizational model of the telecommunications regulator, which was a subject of discussions also in the process of making of the Broadcasting Law of 2005. In that period, such idea was not endorsed with an explanation that would lead to giving too much power to the Director, and the collective body, which actually is supposed to determine and implement the regulatory policy (the Council) would be reduced to a “formal coverage” of the decisions created by a small group of people led by the Director. The peril of concentration of all decision-making powers into the hands of one person is implied by the expert analysis of the law –proposal carried out by the OSCE in which it is stated: “...it is important that the supervision by the Council to function in proper way, in order to avoid one-person power concentration”.<sup>3</sup>

Second argument against organizing of the regulator as an “agency” is also the fact that the media regulators should function as independent regulatory authorities (or bodies), because the agency method of organizing is more appropriate for the authorities which belong to state administration. A comparative analysis<sup>4</sup> of the organizational set up of the media regulators in 13 (older) EU Member States shows that in 11 countries these bodies are called “independent regulatory authorities”, whereas only in two countries (Finland and Switzerland) they are organized as “agencies”.

The functioning practice of the regulatory body according to the first two laws confirms that when broadcasting (now known as audiovisual domain) is concerned, it is of great importance that the regulator consists of experts in fields of expertise that are relevant to this domain. The collective nature of decision making, as well, was a good protection measure against concentration of all the power in the hands of a small group of individuals and to some extent, it hindered the process of political influence upon the regulator.

## RECOMMENDATION:

*To re-establish the model of a small expert- body as it is foreseen in the Recommendation No. (2000) 23 and to cancel the two- level decision making introduced in line with the type of the organization of the telecommunications regulator, i.e. to re-establish the full decision making capacity of the collective authority– The Audio and Audiovisual Media Services Council*

<sup>3</sup> See: <http://www.osce.org/fom/102135?download=true>

<sup>4</sup> Media Regulators in Europe: A Cross-Country Analysis, see: [http://www.lasics.uminho.pt/ojs/index.php/cecs\\_ebooks/issue/view/118/showToc](http://www.lasics.uminho.pt/ojs/index.php/cecs_ebooks/issue/view/118/showToc)

2

## NOMINATION AND ELECTION OF THE REGULATORY BODY MEMBERS

### STANDARDS:

In the Council of Europe Recommendation No. (2000) 23 it is stipulated that the regulations on election of the regulatory bodies members incorporated in the legislative regulation should protect them against any political influence, especially from political and economical pressures. To that end, the legislative regulation at national level must contain precise rules regarding the following:

- *Merit-based System* – selection of experts and individuals with proven achievements in the fields necessary for professional and efficient work of the regulator;
- *Election Procedure* – democracy in the procedure, transparency and public debate on the proposed candidates;
- *Tenure* –duration and non-renewable tenure;
- *Conflict of Interests* –incompliance of the function, rules prohibiting actions, which breach the independence in performing the function or acquiring personal benefits;
- *Dismissal* of the function of a member of regulatory body.

### LEGAL PROVISIONS AND THEIR APPLICATION:

- *Merit-based System:*

In both of Broadcasting Laws, the expertise, the achievements and the merits were a precondition for proposing and electing of the members. In the first set up, majority of the members were elected based on their qualifications and the merit-based principle, whereas in the second set up these regulations were not fully followed, so there were members from non-complying fields in the structure of the body (mechanical engineers, chemical engineers, etc.) or other members with not fully

competed (higher) education. The principle of achievements and merits, although integrated into the new Law on Audio and Audiovisual Media Services, the Council (Article 16), is not fully respected, because for the majority of the members it cannot be said that they proven themselves publicly as qualified professionals in the fields of importance for accomplishing the competences of a regulator. The concrete areas, which are provided in the Law, are not randomly selected, but show that the Council must be presented by a variety of expertise, or that upon selecting, a careful attention must be paid to having candidates that will present exactly the required fields since they bear great importance for successful implementation of the competences of the Council. The reference “other similar field” must not be used as a rule of election, only as an exception of it. The professional profile of the present composition of the Agency Council is the following: electrical engineers/IT specialists, a politicologist, a political scientist, mechanical engineer, IT mathematician, lawyer by education/journalist and a lawyer by education/attorney. In addition, we hardly can say that any of the members have distinguished themselves publicly as experts in their field.

- *Election Procedure.*

In accordance with the Broadcasting Law of 1997, the Commission for election and nomination issues of the Assembly of the Republic of Macedonia proposes all the members of the regulator and the Assembly elected the members by simple majority voting. In the Law of 2005, in order to reduce the political influence in the election process and to “democratize” the election procedure, the so-called authorized proposers were introduced. However, speaking of practice, the political parties would always find way to avoid the legal provisions and to propose inclined political individuals. The deadlines and transparency of the procedure were not respected by the Assembly itself (candidates bios were not publicly presented, or only the name and just brief bio information was given, there was not any broad public discussion on the candidates’ quality, there was a delay of election and the Council was working in insufficient capacity, etc.). The amendments of the Broadcasting Law of 2011 introduced new authorized proposers who enabled also direct political influence in the nomination process. The new Law on Audio and Audiovisual Media Services of 2013 retained the concept of authorized proposers, now new on list is “ZELS” (the Association of the Units of Local- self Government of the Republic of Macedonia), two journalist associations, MANU (the Macedonian Academy of Sciences and Arts), the Bar Association and the Commission for Election and Nomination issues of the RM Assembly. The remarks referred in the analysis of the draft- law, produced by

the Council of Europe expert were about the decision making influence hazards of the ruling party upon the election of the members: (1) by the influence of the very Commission on the election and nomination issues, and (2) by the fact that the Assembly votes for the election of the members by simple majority voting. The Council of Europe recommended that the election of the members of the regulator to be made by two-thirds majority voting. These remarks by the CE are not incorporated in the adopted legal text.

- *Tenure.*

According to the previous two laws, the tenure of the body members was 6 years and there was a rule of non-renewable tenure. In the new Law on Audio and Audiovisual Media Services, this tenure was unjustifiably extended to 7 years. Additionally, although in the new legal text (Article 15) it is established that the members do not lay claims to renewed tenure, however, in the transitional provisions of the Law the members of Broadcasting Council from the previous set up were given the possibility to be elected also in the Agency Council. In this way, five members from the previous set up received new tenures, by which their tenure was extended for another 7 years (or a total of 9 years because they were elected in 2011). This is in breach with the Recommendation No. (2000) 23, which stipulates that the limitation to only one tenure serves to "... avoid creation of loyalty [of the members] towards the authorities by which they were elected."

- *Conflict of Interests.*

The Conflict of interest was clearly defined also in the first two laws, and in the new Law, as well. However, this provision was only formal in practice, meaning that in most cases were nominated and elected individuals who were close to the political parties and who only formally met the non-compliance criteria of the function. There is a provision in the present Law (Article 16, paragraph 4), which prohibits the Council members to receive gifts or to undertake actions for the benefit of entities being subject to regulation. The Regulator's Code of Conduct regulated part of these issues in the past, but this document remained only as a written rule. In the years past the conduct practice of the regulatory body members (the Broadcasting Council and the Council of the Agency for Audio and Audiovisual Media Services) showed that there is a difference in the formal and real independence of the regulator. The manner in which, decisions were made upon granting licenses, in the periods of monitoring and election campaigns or a range of other cases, indicated that for the majority of the

members the independence is only “declarative” category and that the body was subject to influences, both by the political parties and the industry.

*Dismissal of the function of a member of regulatory body should be possible only in case of breaching of the rules on conflict of interests, hindering in the performance of the function or serious law breaking. Such provision was contained also in the two preceding laws and in the new legal text. An issue, which was not regulated, was the manner of dismissal from the Council President function, which could also be politically motivated.*

## RECOMMENDATIONS:

*Although practice showed that the legal solutions are not sufficient to provide independence by themselves, it is still necessary, by making certain amendments in the present law, some attempt to be made regarding the “de-politicization” of the regulatory body since its work directly reflects upon the media independence.*

- The conditions for nomination and election of members (merit-based system) to be strengthened and scrutinized. There is a provision in the Law (Article 16, paragraph 1), which in a certain way introduces the merit-based system, but it should be separated as a unique article, to be detailed and expanded in order to provide election of independent experts who really achieved distinguished results in their field of expertise. Namely, in Article 16 new paragraph (2) should be added in which should be explained that “the persons who have distinguished themselves in the provided fields of paragraph (1) should have published works in a specific scientific field or created works in the sphere of Arts, Culture, or Audiovisual Art, to be rewarded and/or known to the public in terms of their contribution and works, and etc. Also, the work experience (Article 16, paragraph 1) in a specific field should be increased from 5 to 10 years.

- The number of body members to be 9 again, upon which the nomination to be done in the following way: two members to nominated by the two journalist associations, one from MANU and one from the Inter- University Conference, 3 members from the Commissions on Election and Nomination issues (which should



provide candidates also from the members of non-majority communities), while two members to be functioning as experts on Media Law and Media Ethics who shall be elected via public job announcements by the Commission. The Assembly should vote for the nominated candidates by two-thirds majority voting.

- The provisions should be made more precise regarding the transparency of the procedure, by which the publishing of the candidates' bios and the public debate in relation to them to be mandatory both, for the authorized proposers and the Assembly. In this view, in Article 14, paragraph (4) it should be added that the authorized proposers determine the proposal at a public session on which they debate on the professional qualifications and/or achievements of the candidates relating to the fields under competence of the regulator.

- The tenure of the members to be re-established to 6 years.

- The provisions about Conflict of interests should be additionally expanded and explicit prohibition should be inserted on receiving instructions or orders by any authority or individual, or about actions that undermine the independence of the body (as defined in the Recommendation). In addition, in order to strengthen the political independence, it is necessary to insert the requirement that 5 years prior to the nomination/election of a member of the regulatory body, the candidate should not be holding any public function.

- In the provisions of dismissal to be made precise that, the same preconditions are valid for the President of the Council.

- The provision of Article 14, paragraph 11 to be deleted on the grounds that the Ministry of Information Society and Administration must not be involved in the procedure of nomination and election of members of the regulatory body.

- To abolish the provision of Article 15, paragraph 4, in accordance with which the regulator can work with 5 members, because the practice speaks of serious decisions with huge consequences upon the situation of the activities (for example, granting licenses) to be made in small capacity. The decisions with serious regulatory impact should always be made in full capacity of the regulatory body.

## 3

## AUTHORIZATION AND COMPETENCES

### STANDARDS:

The most relevant authorizations and competences of the regulatory bodies stated in the Recommendation No. (2000) 23 are the following:

- Authorization for adoption of by-laws in the domain of competence (regulatory authorizations);
- Authorization on awarding (and deprivation) licenses;
- Authorization for monitoring of the broadcasted contents of the broadcasters, or of the audio and audiovisual media service providers;
- Authorization to carry out monitoring of the contents broadcasted by the public service (in some countries this authorization is given to regulatory bodies);
- Authorization of asking and receiving information from the broadcasters, or the audio and audiovisual media service providers;
- Authorization to receive and act upon complaints in relation to the broadcasters, or the audio and audiovisual media service providers' contents;
- Authorization to sanctions when the broadcaster, or the audio and audiovisual media service providers do not follow the legal provisions; a variety of sanctions should be in place (depending of the type of the violation) and prior the sanctioning the subject should be given opportunity to a statement; a right to appeal to the competent judicial authorities also should be guaranteed upon the imposed sanction.

### LEGAL PROVISIONS AND THEIR APPLICATION:

In both, the preceding Broadcasting Law and the new Law on Audio and Audiovisual Media Services all the essential authorizations mentioned in the Recommendation are incorporated. What is not appropriately formulated in the present Law is the authorization of the regulator to monitor the contents of the public

service in comparison with the competences of the MRTV Programme Council and the authorization of imposing sanctions in cases of hate speech in the contents. Besides this, the Agency possesses some competences, which is not the case with the other media regulators.

- *Monitoring of the Public Service.*

In the two previous laws, the authorization of the Broadcasting Council against the program monitoring of MRTV, was clearly specified. In the present Law on Audio and Audiovisual Media Services, the competences of the Agency and the MRTV Programme Council are overlapping, i.e. the provisions imply that the both bodies are competent in implementation of the provisions of the Law, provided that the Agency can impose sanctions, while the MRTV Programme Council may only notify the MRTV Director and to issue order for termination of the broadcasting. More precisely, the Article 4 of the Law determines that the Agency is authority in charge "... of the activities subject to this Law", and in Article 6, where the competences of the Agency are explicitly presented, inter alia, it is stated that it: "... takes into consideration the protection and development of pluralism of the audio and audiovisual media services,... undertakes measures in accordance with this Law in cases of violation of this Law provisions or of the regulations adopted on its basis...". Further on, in the Article 29 the duties of the Agency are defined in terms of performing program supervision (monitoring) "...of the broadcasters' programs....from aspect of respecting the provisions of this Law...the by-laws and the other acts adopted by the Agency". The Article 110 specifies the special obligations of the MRTV in terms of the programs, while the Article 111 the program principles by which MRTV is governed. The Article 124 determines the competences of the MRTV Programme Council, among which also the first one is to "to follow the realization of the program duties, the principles and the standards stipulated in this law, and in case of their disrespect it is its responsibility to send a written notification to the MRTV Director and it may as well request the termination of the program broadcasting". It is important to underline that performing program supervision is a complex operation, which requires a lot of resources and professional qualifications, which only Agency possesses. This, above all refers to the program obligations of the MRTV stipulated in the Article 110, and especially to the realization of the political, cultural, linguistic and other aspects of pluralism on the part of the MRTV. Such analyses are of great importance in making progress assessments of regulatory goals, for the purpose of which the regulatory body was primarily established. One of the main regulatory goals is to secure pluralism in all its dimensions, and the most of the

obligations regarding this, fall under the public service. Therefore, it must be clearly stated that the Agency is competent to monitor the realization of the MRTV program obligations and to this end to cooperate and to communicate the information to the MRTV Programme Council.

- *Authorization to Sanctions.*

The general authorization of the regulatory body to impose sanctions was provided with the Article 23, which lists the measures that (the Director of) the Agency may undertake in case of violation of some of law provisions. In the Article 24 the subject, to which measures are imposed, may be given guaranteed right to appeal, while the penalty provisions (Articles 147, 148 and 149) define the fines, which are given in the misdemeanor procedure. In the Article 150, as another form of misdemeanor sanction is set the prohibition to practice profession, from three months to a year. It should be emphasized that the heaviness of the fines foreseen in the penalty provisions is not determined on the basis of analysis on the seriousness of the violations and in separate cases is not appropriate or is too high regarding the music quotes or for originally created programs. A serious drawback of the Law is that there is no sanction for broadcasting hate speech contents by the domestic broadcasters or the audiovisual media service providers, despite the fact that this is one of the most serious violations, which is sanctioned by the regulators in other countries. The prohibition of hate speech is defined in the Article 48, but the penalty provisions do not specify the fines, or the possibility of pronouncing prohibition to practice profession. From another perspective, the Article 45 stipulates that the Agency may pronounce most severe measure (to give order for termination of re-broadcasting) to foreign service, if it observes examples of hate speech.

- *Other competences.*

In the Article 6, the Agency is given competence to “make measurements of the program popularity or of the program services of the broadcasters from the Republic of Macedonia”. Such competence is not given to any regulatory body, and this should be removed from the Law. The popularity measurements are done by independent research organizations or some associations of subjects in the media industry request them from some research agencies. The regulatory bodies only use (buy) the popularity measurements data in order to follow the trends of habits and the public preferences. Besides that, the Agency is also competent to perform administrative monitoring of the print media (Article 6 and Article 29) in view of their responsibilities established

in the Law on Media, as well as possibility to pronounce measures on print media for breaking the law. It is important to highlight that the audiovisual regulators from other countries do not have any authorizations regarding the print media and this authorization should be removed from the Law.

## RECOMMENDATIONS:

- *To make authorization of the regulatory body precise in terms of all the program obligations of the public service and to insert a special line in the Article 6 that the regulator monitors and analyzes the realization of pluralism as a whole in the media sector, in all of its dimensions (political, cultural, geographical, pluralism of ownership, etc.) and the internal political pluralism of each broadcaster (including the public service, as well), in the course of the whole year, not only during the election period.*
- *This is essentially important authorization which some of the audiovisual regulators have (for example, France) and it can be very significant for protection of the independence of media and pluralism, in general. Additionally, based on those assessments, the regulator should be authorized to undertake appropriate measures.*
- *To introduce fines for broadcasting hate speech contents. To analyze the amount of the fines in compliance with the seriousness of the violations and to correct the amount of specific fines, which are disproportional at the present moment.*
- *To remove the competence of the Agency to perform popularity measurements, as well as to perform administrative supervision over printed media.*



4

## REPORTING AND TRANSPARATION

### STANDARDS:

The most important points of the Recommendation No. 23 (2000) in terms of reporting responsibility and transparency of the regulator refer to the following:

- The regulators should submit reports, above all, to the public, because they are supposed to work for the public interest; that's why all their activities should be maximally transparent;
- The regulators should be subject to democratic control, but the supervision should be carried out only in terms of lawfulness of their work (a posteriori) and the rightfulness and transparency of their financial work (this could be a priori); none other control is permitted;
- All the decisions of the regulatory body must be completely and intently elaborated and subject to judicial revision; all decision must be available to the public.

### LEGAL PROVISIONS AND THEIR APPLICATION:

All the rules in terms of reporting and transparency of the regulator are precisely regulated in the new Law on Audio and Audiovisual Media Service. What is missing is the provision, which was contained in the two preceding laws i.e. the regulator works at sessions and his sessions are public. This is very important issue, because it was practice in past to decide upon very significant decisions behind closed doors, the sessions turned out into formal acts of decisions adoption, without any debates or presenting any arguments and counter-arguments, only raising hands for adoption of final decisions. After that, the minutes from sessions and the final decisions contain only poor information. Having this said, the essential requirement of the Recommendation is not fulfilled regarding all their activities to be transparent and all

the decisions to be elaborated in detail. It is important to mention that the regulatory bodies from other counties when reaching important decision for granting licenses or pronouncing sanctions, their decision is elaborated on more than 10 pages including all the relevant aspects.

Despite the fact that the provisions of the existing law are sufficiently detailed, the transparency and reporting in practice are only met “pro forma”. The public does not have the needed access to all the detailed information on the work of the regulator and on the validity of the decisions adopted. The public consultations are not productive and serve to self-presentation of the regulator, instead of being an opportunity for open and critical debate of the policies.

## RECOMMENDATIONS:

- *To insert a provision (paragraph 1) in Article 9 that the regulator works at sessions, sessions are public, they can be attended by any interested in parties, announcing their presence in advance.*
- *To insert a provision (paragraph 2) which shall explicitly state that all the minutes and decisions should be elaborated in details and be published on the regulator’s web in shortest possible timeframe, or one week after the held session at the latest.*
- *To insert and third provision in Article 9 stating that it is regulator’s duty to publish on his/her web page also all the other decisions and documents related to his/her internal organization and work.*



5

## FUNDING OF THE REGULATORY BODY

### STANDARDS:

The funding is the key element for the regulator's independence. In Recommendation No. 23 (2000) are stated the following most relevant aspects that must be guaranteed in the national legislative regulation:

- The Funding Framework of the regulator (as well as for the public service) must secure the long-term independence and stability, and sufficient means necessary for efficient realization of the functions; the authorities are not allowed to use the powers to decide for the regulator's financial means for the aims of political pressure;
- The Recommendation does not precisely prescribe from which sources the regulator should be funded, but it warns that the financing from the Budget might be problem in terms of independence; in most countries it is common practice to do financing from combined resources, upon which as a potential source appears a certain percentage of license fee, which the broadcasters pay; financing from licenses brings certain risk in a sense that the regulator might insist on increasing the number of licenses in order to make greater profits; public funds (as well as for the public service) are always greater warranty of independence.

### LEGAL PROVISIONS AND THEIR APPLICATION:

The Broadcasting Council, in line with the first and the second Broadcasting Law, was funded by combined sources, but principal source was the percentage from broadcasting fee. In Article 6 of the new Law on Audio and Audiovisual Media Service it is stipulated that the work of the Agency is funded by: incomes from compensations foreseen by Law (television or radio broadcasting fees, fee for supervision for AVM services upon request), broadcasting fee, as well as by loans and other financial and technical support. In the Articles 135 and 140 it is stated that the broadcasting fee is

distributed to three entities: MRTV (74,5%), Macedonian Broadcasting Agency (19,5%) and the Agency (6%). The fact that the license fee or supervision fee is a primary source determined in the Law, this departs from the so far practice in Macedonia, and from the practice in many other countries. The comparative analysis of the media regulators covering 13 European countries shows that only in two of them (Finland and Ireland) have the license fee is a primary source for funding of media regulators. In six countries, the regulators are being funded from combined sources, while in three countries the funds are coming from the Budget (there are no data for two regulators)<sup>5</sup>.

The broadcasting fee, as usual, must be primary source for the regulator, and the fees should only be an additional source of income and should realistically present the costs that the regulator has for performing control of the contents. The regulator (in all its set up) has applied so far too liberal approach in awarding, or deprivation of licenses, which has negative impact upon the market situation being so disintegrated for many years, and it does not allow conditions for professionalization of the media sector. One of the reasons for such approach is certainly the fact that the license fees are important source for financing of the regulator. For example, in the Annual Report on Regulator's Work for 2014 it can be determined that the incomes from licenses amounted to 38.260.017 MKD or 39.1% of the regulator's total effective incomes in that year which were estimated to be 97.857.693 MKD (without amount of the transferred means from the previous year). The high stake of the license fees in the regulator's total incomes, certainly influences its regulatory policy, because also the existing regulatory body continued with the practice of awarding licenses without raising the criteria and without taking care that whole segments of the broadcasting sector (regional and local level) have shown negative financial results over the years. The dominant point of view of this regulatory body, as well as of some other set ups, is that the market should be the only selection tool for those who can survive. Such standpoint shows that there is no sufficient knowledge of the broadcasting regulatory intervention principles and this makes a huge damage to the business in whole. One of the main mechanisms of the regulatory intervention is exactly the licensing through which the regulator may actually shape the pluralistic media image, which will meet the criteria of different cultural, linguistic, information needs or other needs of the audience. Based on such a strategic vision, the regulator should build the criteria for awarding new licenses and specify which subjects on the market contribute or may contribute to development of pluralism.

---

<sup>5</sup> *Media Regulators in Europe: A Cross-Country Analysis*, See: [http://www.lasics.uminho.pt/ojs/index.php/cecs\\_ebooks/issue/view/118/showToc](http://www.lasics.uminho.pt/ojs/index.php/cecs_ebooks/issue/view/118/showToc)

## RECOMMENDATIONS:

- *The broadcasting fee should stay a primary source of funds for the regulatory body in the future, while the license fees should be only one of the other additional incomes.*
- *However, having in mind the problems in the process of collecting the broadcasting fee and the high costs for forced payments, it is necessary both, for the public service and the regulatory body, to anticipate the possibility of receiving funds from the Budget in a previously determined percentage, which should be proportional to the regulator's needs for efficient performance of the duties and which, de facto, would be allocated on the regulator's account.*
- *On the other hand, there is a need to review the provision of the Law on Audio and Audiovisual Media Service (Article 80) which relates to the formula for calculation of the fee for license for radio and television broadcasting, in order to reduce the amount of the fee paid by the broadcasters at least by half of the present amount; in this way the overloading that broadcasters now have shall be reduced and they will be able to invest in professionalization and higher quality programs;*



Photo: Vanco Jambaski  
[www.radiomof.mk](http://www.radiomof.mk)

*ЗНА*

III. REFORM FOR  
MACEDONIAN  
RADIO TELEVISION

# CONTENT

- 1 European standards and principles \_\_page 55
- 2 European models for managing public service broadcasters \_\_page 56
- 3 Macedonian experiences - Public service under the control of policy \_\_page 57
- 4 Financing of MRTV \_\_page 60
- 5 Appointment of the management authorities within the public service \_\_page 65
- 6 Parliamentary Channel \_\_page 70

## EUROPEAN STANDARDS AND PRINCIPLES

Freedom of expression is one of fundamental human rights and its respect is essential for functioning of democracy. The degree of respect for this right reflects the quality of democracy and protection of human rights.

Freedom of expression is inextricably linked with the freedom of the media because the media are a very important tool for freedom of expression. Free and professional media are citizens' key source of information about important issues in society. Moreover, the media are an important tool for democratic control of government, but also a platform for public debate in society.

Recommendation (96) 10 of the Council of Europe on the independence of public service broadcasters reaffirms the vital role of public services as an essential factor for media pluralism, which are available at the national and regional level and provide comprehensive programs that contain information, education, culture and entertainment for citizens.

Recommendation (2012) 1 of the Council of Europe for the management of public broadcasting services pointed to their specific role in respect of freedom of information by providing variously high quality content. The primary role of the public service is to promote the general interest such as social progress, public awareness for the democratic processes, intercultural understanding and social integration. Public service cannot be an important selection of accurate, timely and plural information, if it is not independent from the various political and economic influences.

Institutional autonomy and editorial independence of the public broadcaster must be guaranteed by law, which primarily provides a sustainable source of funding as well as an impartial and transparent process of selection of the managing authorities.

## 2

## EUROPEAN MODELS FOR MANAGING PUBLIC SERVICE BROADCASTERS

Institutional autonomy and editorial independence of the public service countries in the free world is provided through various forms. The Council of Europe does not recommend a model, but rather focus on the effects that should be produced. Humphreys, 2012 distinguishes four models of public services. The first is the **government**, where management authorities at the public broadcaster are appointed by the Government. This model is present in Greece, Spain and Portugal.

The second model is called **professional** and is present in countries with long democratic tradition. There exists broad consensus among the political parties that public service should be managed by independent media professionals. Such public service is the BBC in the UK, Canadian SBS, the Irish public broadcaster RTE and other public services from Scandinavian countries.

**Parliamentary** is the third model for the functioning of public service broadcasters, where control is divided between the political parties. This pattern was present only in Italy. It was abandoned as inadequate because the public service was converted into service of political parties, not the citizens.

The last model is the **civil-corporate** where control of the PBS is divided among various political parties and important social groups, such as journalists and media associations, business community, religious communities, ethnic communities and others. This model is present in Germany, the Netherlands, Austria and other European countries.



3

## MACEDONIAN EXPERIENCES - PUBLIC SERVICE UNDER THE CONTROL OF POLICY

Macedonian radio television since the independence of the country in 1991 continued to be under strong political control of the ruling structures. During these 24 years, the Macedonian democratic transition from monism to democracy, citizens and the opposition in continuation never considered MRTV for public service. The ratings, confidence and influence of MRTV in the public have always been low. In 1997, the opposition at that time even made public call to citizens not to pay the broadcasting fee, which negatively affected the financial condition of service. Equal treatment towards MRTV has the current opposition, which believed that it is propaganda machinery of current position.

Political and party control of MRTV is detected by the European Commission. In the latest European Commission report on Macedonia's progress in 2014 was concluded that MRTV does not fully fulfill the role of public service as source of informative media content that is balanced and impartial. "The political and financial independence of the public service are not yet well defined."<sup>1</sup> Therefore, the EC urges the authorities to take further steps to ensure sovereignty of the public service.

Apart from the EC and OSCE has negative assessment on the manner of reporting by the Macedonian public service. In the final report of Monitoring Mission of OSCE / ODIHR for the presidential and early parliamentary elections in 2014, was concluded that the MRTV reporting on the election campaign was biased in favor of the ruling

<sup>1</sup> EC report on Macedonia's progress in 2014, <http://bit.ly/1uAgzCC>

parties. “The public broadcasting service failed to provide balanced and equal coverage of all candidates and parties, and thus violated paragraph 7.8 of the OSCE Copenhagen Document from 1990”.

The need to improve the situation with MRTV was pointed in the document of the European Commission published in June this year, titled “Urgent priority reforms in Macedonia.” In this document the European Commission in the section on freedom of the media it is said that should be carried out necessary changes and the manner of management of MRTV and editorial training in order to respond the repeated criticisms “for the lack of political independence and the lack of balanced reporting, and to ensure high-quality informative content<sup>3</sup>.”

Law on audio and audiovisual media services clearly, does not guarantee institutional autonomy and independent editorial policy of MRTV. Paragraph 3 of Article 104 in this regard is unclear and confusing. Instead of clearly and unequivocally to state that MRTV enjoys institutional autonomy and is leading independent editorial policy, it states that “MRTV as public broadcasting service in Republic of Macedonia is independent from any state organ, other public legal or trade union and should be impartial towards them in the editorial and business policy<sup>4</sup>.”

### RECOMMENDATION:

- ***This paragraph of the Law should have clear provision that MRTV enjoys institutional autonomy and is leading independent editorial policy.***
- ***Without institutional autonomy and editorial independence, MRTV cannot be service to the citizens and provide professional standards of impartiality, objectivity and fairness in reporting, as defined in the law.***

---

<sup>2</sup> Final report of Monitoring Mission OSCE / ODIHR on the presidential and parliamentary elections in 2014, <http://bit.ly/1LqD1XR>

<sup>3</sup> Urgent reform priorities for Macedonia, <http://bit.ly/1FnQJIV>

<sup>4</sup> Law on audio and audiovisual media services, <http://bit.ly/1MkCmFR>

In addition, the Law should clearly define the vision, responsibilities and general purpose of the service. These items are not regulated separately in the Law, but are scattered in several articles, which makes the Law unclear and confusing. It primarily concerns the mission and responsibilities of MRTV, which are not clearly demarcated. So for example, the mission of service is partly defined in Article 104 of the Law, which states that MRTV “carries function of public service broadcasting”, and then back again in Article 110, where says that “develops program scheme in the interest of overall public.” There are other provisions of this Article that could be separated in special article for service mission.

Responsibilities i.e. obligations of MRTV in terms of programs and program services are defined in Article 110. Some of them are well defined, such as for example, the development of free opinion, driving the democratic process, promoting culture of dialogue and debate, promoting human rights and other. However, these commitments remain only wishes because public service is not independent to fulfill these obligations. Standards and principles in the production or presentation of the programs are well defined, but they practically cannot be applied because of the current political dependence of MRTV from the Government. For the good functioning of the public service, it is necessary to guarantee that the service is well equipped to fulfill the responsibilities.

## PROPOSAL:

- *To adopt special law on MRTV, which will clearly regulate all aspects of its work. Clearly defined mission, vision, competence, financing, choice of governing bodies and more.*

## 4

## FINANCING OF MRTV

One of the main reasons for the political dependence of MRTV is the absence of stable and sustainable source of funding. Although MRTV is funded by different sources such as broadcasting fees, budget funds, advertising, donations, sales of program and others, the service still cannot provide enough funds that will enable optimal respect of the legal obligations.

Compared with public service broadcasters from Europe and the region, MRTV has sweeping least income on any basis, number of population or gross national income. Croatian HRT has annual budget of 190 million euro, Serbia's RTS has just over 100 million euro and the average budget of MRTV throughout the years is just over 15 million euro.

The existing funding system for the MRT, set up with the Law on audio and audiovisual media services is complex and confusing. Part of the cost for transmission, broadcasting and the provision of program services, such as radio program for immigrants in neighboring countries and worldwide, for one radio and one television program service via satellite or internet for expatriates worldwide and parliamentary channel are financed by the Government, while both television and radio programs are funded by broadcasting fees. However, if the funds from the fees are not sufficient to cover the production costs of these program services then they can be provided from the state budget.

To be more complicated system, the means collected from the broadcasting fee are not used to finance MRTV, but also to finance the Public Enterprise Macedonian Broadcasting and Agency for Audio and Audiovisual Media Services.

Fee collection is low and in its best times does not pass 50 percents. On the other hand, in average per year, the Government provides of 25 percents from the budget

for the public service, which can seriously jeopardize independence of the public service. The most drastic thrust of Government funding for MRTV was in 2010 when from its sources were provided 63 percents of the public service budget<sup>5</sup>.

In 2011, the share of Government funding of MRTV was 24 percents, while in 2012 this percentage is higher i.e. 30 percents<sup>6</sup>. About 15 percents of the budget is financial support from the Government, over 11 percents for transfer of digitization and about 4 percents revenues for special programs.

The share of Government funding of MRTV in 2013<sup>7</sup> seemingly has noticed some decline and it is over 15 percents of annual budget, but the amount of money that the Government provides for various grounds for public service remains about 7 million euro, similar to previous years. The decline in the percentages of government shares is achieved due to the increased achieved budget of MRTV for 2013, which was around 29 million euro. Increased revenues are probably due to the collection of old debts based on non-payment of broadcasting fees.

In 2014<sup>8</sup> the Government contributed in the budget of MRTV with around 25 percents, 18 percent for financial support for public service and above 7 percents support from the Agency for Electronic Communications for Digitization.

According to the financial operation plan the Public Broadcasting Company Macedonian Radio and Television for 2015<sup>9</sup>, the annual budget of the MRTV is planned at around 22 million euro. Compared with the previous year, the share of Government funding for the public service is increased at around 30 percents. With these assets, with four million, the Government covers the cost for digitalization and supply of audio and audiovisual media works, and the remaining funds are obtained from the Ministry of Culture and Ministry of Information Society and Administration for support of Macedonian music production and domestic production.

In this respect the Law on audio and audiovisual media services does not respect the Recommendation (96) 10 of the Council of Europe, which emphasizes the importance of respecting the freedom of the media, especially from Government.

In addition, in the Article 105 of Law is not incorporated in the principle of this recommendation that the authorities will use the manner of financing of public service to jeopardize, directly or indirectly the independent editorial policy and institutional

**5** *Analysis of the operations and programs of MRTV*, <http://bit.ly/1Ph2X7t>

**6** *ibid*

**7** *Annual report on the results of the PBC Macedonian Radio and Television in 2013*, <http://bit.ly/1KoQcqd>

**8** *Annual report on the financial operations of the PBC Macedonian Radio and Television in 2014*, <http://bit.ly/1U1TMhr>

**9** *Financial operation plan PBC MRTV 2015*, <http://bit.ly/1FowKe0>

autonomy. In paragraph 2 of the same Article it is stated that donations should not affect or impair editorial independence of the public service, but there is no such provision for government funding or state aid for MRTV.

The expert of the Council of Europe Barnard Mavs analysis of the Law on Audio and Audiovisual media services in 2013 warned on this danger. The funding of public broadcasting service by the share of the state budget includes threat to its independence. Mavs then recommended to reduce the Government's role in deciding on the funding of public service<sup>10</sup>.

In 2013, the Public Revenue Office is responsible for payment of the broadcasting fee, but the fee collection has not been increased significantly, but rather, were created big losses for PRO and Macedonian Post for printing and distribution of decisions for the fees. **What was cost amount?** Additional cost are made if the taxpayer does not pay the fee within the prescribed period and then, the Administration should send further warning, and then to initiate procedure for forced collection. The lower is fee collection, the greater is Government share of funding the public service, which creates an institutional dependence.

The collection fee is low because lacks the political will of the ruling parties to build effective mechanism. It is not permitted for a country that is leader in the region for the collection of other taxes, not to find effective collection system for DF.

This fact is confirmed after the latest amendments to the Law on audio and audiovisual media services, by which the Government abolished the obligation of those who receive social assistance to pay the broadcasting fee. It is undisputed that the Government is entitled to take into account the social situation of the unemployed people, but it is not acceptable the burden of such a policy to fall on the backs of public service putting into question its financial condition. The Government should have taken the responsibility for social recipients fee and to compensate the public service through budget means.

It is obvious the intention of all previous governments for MRT not to have sustainable source of funding and thus always be dependent on Government money and therefore to be subject of various external influences and control.

---

<sup>10</sup> EC Expertise on the draft Law for audio and audiovisual media services.

Compared to European countries, Macedonia has the lowest fee, which amounts to about 3 euro per month. In this section, the law also does not incorporate two important principles of the Recommendation (96) 10 for financing public services, that the amount of the broadcasting fee will be determined by the authorities in consultation with the public service by taking into account the costs of the activities of which depend its mission fulfillment. Moreover, the recommendation requires the amount of funds to enable the public service continuity of activities and long-term planning.

Another argument, which shows that the financial independence of MRTV is Government priority, is not implementation of Article 139 of Law AAMS. This Article provides obligation once per year to increase the amount of fee depending on the cost of living for the previous year published in the State Statistical Office. Such adjustment of the fee to the cost of living in 2014 was not done.

## PROPOSAL FOR FINANCING MRTV

Due to all the above weaknesses of the existing system for financing Macedonian Radio and Television, the Association of Journalists of Macedonia proposes independent budget for MRTV, which will provide stable and sustainable choice as source of financing for MRTV. The amount of the budget will be one percent of the national budget from the previous year. The funds are divided in 12 equal installments and automatically are flown in the account MRTV not later than the 5 of the current month.

The obligation for collecting the fee would be left to the public institutions and directly will flow in account of the Budget of Republic of Macedonia. MRTV can generate other revenues such as from advertising, rent, income from abroad, income from positive interest rates, sales of program and other commercial services.

Comparatively speaking, the total budget of MRTV for 2012 is approximately 20 million euro and the Croatian public service for the same year had 192 million euro<sup>11</sup>. In the area of public duties from the budget for the same year, the Macedonian public service has provided 15.8 million euro and Croatian 157 million euro or HRT has ten times larger budget in the area of public duties than MRTV. Purchasing power parity (PPP) of Croatia is 18,314 dollars per capita annually and Macedonia has 9,300 dollars.

---

<sup>11</sup> EBU REPORT - FUNDING OF PUBLIC SERVICE MEDIA 2013, <http://bit.ly/1V4qCtm>

Croatia has twice-larger territory, larger population and GDP, and Croatian public service has ten times greater budget than the Macedonian. In addition, HRT mainly produces program in Croatian and Macedonian public service produces program in seven languages, which further burdens the budget of MRTV.

### **JUSTIFICATION:**

Macedonian Budget for 2013 was approximately 2.4 billion euro, which means that the annual budget of the MRTV would be 24 million euro or approximately 2 million euro per month. These funds are paid by the Ministry of Finance not later than the 5 every month of the year from the state Budget. For not fulfilling this obligation should be provided penalties for Minister of Finance.

There are many arguments for the application of this model:

- *Will provide stable financing for MRTV and fulfilling the mission of public service;*
- *Will increase institutional autonomy and independence of the editorial policy of MRTV;*
- *It reduces the potential for Government to intervene in the financing of MRTV;*
- *Will provide continuity and ability to plan activities on time; Higher salaries for the employees and better program;*
- *MRTV will have revenue of 12 euro per capita within the regional average;*
- *Will stimulate collection of broadcasting fee as when the collection of fees is better, the Government will allocate less money from Budget.*
- *Will be avoided extra costs of PRO and Macedonian Posts for collection fee.*

MRTV should hire financial consulting company, which will help to develop financial procedures and regulations.



5

## APPOINTMENT OF THE MANAGEMENT AUTHORITIES WITHIN THE PUBLIC SERVICE

Institutional autonomy and independent editorial policy of public service, other than sustainable funding will depend on the manner of appointment of the management authorities. The Recommendation (96) 10 of the Council of Europe insist on governing principles for the public service that should exclude the possibility of administrative authorities to be subject to political or other influence.

Exactly this key part of the Recommendation is partly incorporated in the legal framework that regulates the work of the Macedonian public service. Although Article 116, paragraph 4, provided that the Program Council of MRTV protects the interests of the public in terms of program content and “should represent the diversity of the Macedonian society”, in practice the current Programming Council is highly politicized and partisan. Out of the 13 Council members, eight are nominated by political institutions, such as the Commission for Election and Appointment of Parliament and the Association of Local Self-Government. Both, the Commission and ZELS are institutions controlled by the ruling parties and therefore members of the Council proposed by them have strong political ties to the Government. As result to this structure of the authorized bodies in the Council are selected two former MPs that belonged to the current parliamentary majority and Council President is spokesperson of one Municipality in Skopje, while the Deputy President of the Council is former ambassador. One member of the Council is the former manager of local television and it is unclear whether at the moment he was elected he has left the position due to conflict of interest.

This part of the law is not only contrary to European standards, but is more restrictive than the previous law, the Law on Broadcasting. In the previous law, the majority in the Council were not the political institutions, but educational, cultural and other NGO. If it is not limited the political influence on the Council it cannot be expected that the editorial policy of the public service to be independent.

The EC expert Bernard Mavs warned on the danger of politicization and partisanship within Council when in 2013 made expert analysis of the Law on audio and audiovisual media services. Unfortunately, then the Government did not accept his recommendation to reduce the number of Council members proposed by political institutions and to increase the number of members proposed from civil society.

### PROPOSAL:

**Instead of ZELS in the Programme Council of MRTV, one member to be proposed by the Macedonian Academy of Sciences and Arts, the Ombudsman, the Macedonian Olympic Committee and Megjashi. In this way would be included the remark of expert from the Council of Europe i.e. to increase the number of members nominated from civil society and the Council to reflect the diversity of the Macedonian society.**

In addition, the Parliamentary Committee on Election and Appointment should propose four members for the Programming Council of MRTV, two on the proposal of the parties from the parliamentary majority and two on proposal by the opposition parties. In this way, the opposition will have the right to voice in the Council, but will, also take responsibility for managing the public service. This distribution of seats in the Council between the political parties will contribute for parties instead of confronting and to blame each other for bad situation in the public service, to cooperate and to strengthen the independence and credibility of MRTV.

On the other hand, the Recommendation (2012) 1 of the Council of Europe requires the guiding principles for management of public services to be based on best management practices. It primarily refers to the appropriate composition of governing bodies and management structure, the procedures for appointing the members of the administrative bodies, the terms of office, and permissible grounds of dismissal, conflict of interest and ways for ensuring accountability of public service.

One of the main reasons for the current politicization and partisanship of the Programme Council is the manner in which the Council members were elected. The current Law provides for Council members to be elected by simple majority in Parliament, by which Government through parliamentary majority indirectly establishes control over the Council.

## PROPOSAL:

To avoid this risk, we believe that members of the Programme Council should be elected by two-thirds majority. Such recommendation was given by the expert of the Council of Europe Bernard Mors, which unfortunately was not accepted by the Government. Such provision in the Law would contribute to creating new political culture among parliamentary parties that the public service should not confront and over-vote, but that this key issue for media freedom is everyone's interest to build broader political consensus with aim to ensure institutional autonomy and editorial independence of MRTV. This will put end to bad political practice the winner at the election to treat MRTV as instrument in his hands for political showdown with the opposition and will build new awareness that the public service should serve for broader public interest of the citizens.

An important prerequisite for independence and efficient management of the public service is manner of regulation the conditions for members of the Programme Council mandate, Supervisory Board and Director of public service.

Article 117 of the Law states that candidates for members of the Programming Council should be "distinguished persons from public life that are well-known for their commitment for respecting the democratic values and principles of rule of law, building and raising the highest values of constitutional order in the Republic of Macedonia, development of civil society, protection of human rights and freedoms and freedom of expression<sup>12</sup>."

Interestingly, in describing the profile of candidate for membership of the Council is omitted his working experience. It is not clear how comes someone without experience can be prominent figure and can contribute to the good functioning of the public service. In the Law, Article 118 Council members mandate is set at five years.

The last paragraph of Article 118 is very problematic because it provides possibilities for Council to work if are appointed nine members. This opens opportunity for abuse, to choose some members, while the selection procedure for other members is prolonged and the Council to work with partial composition for a long time.

Working quorum of the Programming Council is defined at nine members out of 13. This means that decisions within the Council can be adopted with five votes. This manner of deciding can place question for the legitimate credibility of the decisions.

---

<sup>12</sup> Law on audio and audiovisual media services

### PROPOSAL:

Candidate for member of the Programming Council of MRTV be the prominent person in his profession, with at least ten years of experience, reputation and public trust. Programme Council can work after all members are selected. The most important decisions i.e. adoption of Statute, Rules, Annual report, Annual program, appointment and dismissal of Directors or editors, to be with two-thirds majority in the Council.

## MANAGEMENT STRUCTURE

Besides institutional autonomy for successful fulfilling of the mission of public service, MRTV should be managed by experienced manager who will know effectively to use the human resources, financial and technical resources. Given the current situation in the MRTV, the Director shall first have experience in quality management in the media and managing the changes as since 1991 until now have not been done serious reforms.

Article 130 from the Law, has no detailed requirements for candidate for election as Director of MRTV. The only requirement is to have university degree, experience of over five years in the communication, journalism, electronic communications, information, culture, economics and law. For Director of the public service will be chosen the candidate that offered has the highest quality program, but there are no criteria on which the program quality is evaluated. The Director's mandate is restricted on three years, which is too short period for manager to implement the offered program.

### PROPOSAL:

**ToR for appointing the Director to be determined as manager with experience in managing media organizations, with particular emphasis on quality management and managing the changes. The mandate of the Director should be at least 4 years. If it is kept the requirement that the Director is chosen based on the one who will offer best program, it should be establish criteria on which the program is evaluated.**

In the same recommendation in 2012, the Council of Europe seeks to establish functioning system of governance of public services, which clearly defines the vision and purpose. This system of governance includes the establishment of monitoring on

realization of set goals for the service, and providing support from key stakeholders. In addition, the system should ensure that the priorities of management are properly aligned to the main purpose of the organization and that their decisions are consistent with its jurisdiction.

For efficient management of public services, the Council of Europe recommended to apply the principles of accountability, transparency and responsibility. These principles in the existing law are not clearly elaborated and in detail in separate articles.

## TRANSPARENCY AND ACCOUNTABILITY

The sessions of the Programme Council of MRTV, under Article 122 from the Law are public, but the Council is working following old Rulebook from 2006, under which meetings may be closed to the public.

Under Article 106 from the Law, MRTV is accountable to the Parliament of Macedonia and each year submits Annual Report for the previous year, which should include report for realization of program work, financial report on the implementation of the financial plan and audit report. In this section, MRTV did not fill the legal obligation to prepare audit report by an international auditor.

The legal obligation for accountability to citizens is fulfilled through publication of the Annual Report for the previous year and the annual program for the following year at the website of the MRTV. However, the number of publicly available documents on internet site of MRTV is very small. The Program composition of the Council, the Supervisory Board and the profile of the Director and his deputy are not clearly and separately placed on the website. There are no email addresses to which citizens can ask these bodies questions. MRTV has bit adopted 17 regulations under Article 83 of the Statute of MRTV, including the Code of Ethics.

### RECOMMENDATION:

**To increase the number of publicly available documents at the MRTV website. To publish neatly the Statute, Rulebook, the agenda from meetings and Minutes of the meetings. To adopt new Rulebook, Code of Ethics and all 17 Regulations to be published on the website.**



## PARLIAMENTARY CHANNEL

**P**arliamentary channel should be under the jurisdiction of the Parliament of Republic of Macedonia as defined in the Law on Parliament. This means that the Parliament would be responsible for financing channels and for editorial policy as is the case in other European countries (ex. France).

### JUSTIFICATION:

If the Parliamentary channel remains within the MRTV, will continue the practice of dualism in the management, on the other hand, the channel will be treated unequally with the public service. With the digitalization will be easier to deploy equipment and with expansion of the Parliamentary building can be created better working conditions for journalists. Parliamentary channel can be connected with the Parliamentary Institute with aim to organize professional debates on various legislative projects. In the Law on Parliament should be regulated relations between Parliament and the Parliamentary Channel, to determine the management bodies, as well as manners in which the editorial independence is guaranteed. To determine the programming duties of the Parliamentary Channel and the budget required for such production. To establish procedure by which will be selected the carrier of the program.

## CONFLICT OF INTERESTS

Law for Audio and Audiovisual Media Services and conflict of interest for MRTV is regulated in the Article 119. At least three members of the Council have conflict of interest. Two members of the Programming Council at the time of election at the Parliament did not fulfill the requirement i.e. in the last five years were public officials. One of the members is former MP, while the other is former ambassador. The third member of the Council who does not fulfill conditions under the Law is current spokesman of a Municipality. There are doubts over whether the former director of private local television came out of conflict of interest.

### PROPOSAL:

**Programming Council to establish the termination of the mandate of the members who do not meet the legal requirements to be members of the Council.**

## REGIONAL PRODUCTION CENTERS

Although within the Article 104, paragraph 6, MRTV has the right to establish regional production centers, they have not been established yet. The Correspondent network of MRTV inside the country is not developed. Steadily is reduced the number of correspondents, and in towns where there are permanent correspondents they are not well equipped.

### PROPOSAL:

**To establish six regional centers of correspondents, Kumanovo, Tetovo, Shtip, Bitola, Ohrid, Strumica. To hire two journalists and cameramen. In addition, in the major cities such as Gostivar, Struga, Prilep, Kochani, Gevgelija and others to have correspondent for MRTV, while in smaller cities to hire freelancers. One cameraman in a regional center will work with correspondents from the nearby towns of his region.**



Botschaft  
der Bundesrepublik Deutschland  
Skopje



*Liberté • Égalité • Fraternité*  
RÉPUBLIQUE FRANÇAISE

AMBASSADE DE FRANCE  
EN MACÉDOINE

*ZHM*

# ASSESSMENT

of Media System  
in Macedonia

The German and the French Embassy in Skopje supported the preparation of this publication, within the project “Monitoring the implementation of media legislation and court practice in Macedonia” . The content of this publication does not necessarily reflect the position or the opinions of the German and the French Embassy.