

Analysis

DEVELOPMENT OF THE MEDIA IN MACEDONIA ACCORDING TO UNESCO INDICATORS

*The UNESCO Media Development Indicators are available on
<http://unesdoc.unesco.org/images/0016/001631/163102e.pdf>*

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DEVELOPMENT OF THE MEDIA IN MACEDONIA ACCORDING TO UNESCO INDICATORS

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INTRODUCTION

The Republic of Macedonia has a multi-party parliamentary democracy established in the year of 1991, after gaining independence following the collapse of former SFR Yugoslavia. The political system is divided into legislative, executive and judiciary power. The Constitution is the highest legislation in the country. The Parliament is the central and most important institution of the state authority and according to the Constitution, it is a representative body of the citizens and the legislative power of the Republic is vested in it. The President is elected in general and direct elections, for a term of five years. The executive power of the Republic of Macedonia is divided between the Government and the President of the Republic. The Government is elected by the Parliament of the Republic of Macedonia by a majority vote of the total number of Members of Parliament, and for its work it is accountable to the Assembly.

The present Government is led by the coalition of the right-wing party VMRO-DPMNE of the Macedonians and the left-wing party – Democratic Union for Integration representing the Macedonian Albanians, both of the parties having a parliamentary majority. This is the third term of the Government of VMRO-DPMNE, after early Parliamentary elections were twice organized in 2008 and 2011. One of the characteristics of Macedonia is that it is established as a state of the Macedonian people, as well as of the citizens that live in its borders and are part of Albanian, Turkish, Vlach, Serbian, Roma, Bosniak people and others. The commitment to foster the multi-ethnic character of the state is reflected in all spheres of the society and the state, on local and central level.

According to the State Statistical Office' data, 2.057.284 citizens were living in Macedonia in 2011, on the total territory of 25.713 km². The nominal gross domestic product per capita for 2010 amounted to 3.360 Euros (according to the State Statistical Office), and according to the World Development Indicators, Macedonia is a country with upper middle income, that is to say, it belongs to the group of middle developed countries. According to the Human Development Index, the country holds the 78th place, and is among the countries with high level of human development.

Macedonia is the 38th member of the Council of Europe and part of the World Trade Organization since 2003. Macedonia ratified the Convention for the Protection of Human Rights and Fundamental Freedoms in 1997. Regarding the approximation to the European Union, the country signed the Stabilization and Association Agreement in 2004, whereas beginning from 2005 it has the candidate status for EU membership. The Progress Reports of the European Commission, from 2006 to 2011, note down, among other things, both the problems and achievements in the field of freedom of expression, as well as in the field concerning the media and information society.

The pluralization and democratization of the media landscape in Macedonia commenced after the state gained its independence in 1991. Until then, all the broadcasters and printed media, print houses and other production companies were in state ownership. The changes first entered the broadcasting field, whereby many private television stations and radio stations were opened (more than 300), most of which operated illegally. The number of broadcasters was reduced after the adoption of the first Law on Broadcasting Activity in 1997. In the year of 1991, the first private radio station began broadcasting programme, and in 1993 the first private television station was opened (it was A1 TV, which ceased broadcasting in 2011). By opening private broadcasters, the monopoly of the Public Service Broadcaster

MRT was challenged. The pluralization in the field of printed media, on the other hand, happened by publishing the private daily newspaper *Dnevnik* on the market in the year of 1996, which was competition for the state News Publishing Agency (NIP) "Nova Makedonija". (The first independent newspaper in Macedonia was the daily *Republika*, which appeared on the market in 1991, but died out after 218 published editions) At the beginning of the year of 2000, the fall of this largest news publishing house began, after which the process of privatization followed.

Both the domestic and the foreign expert public have noted for years the problems of the media landscape in Macedonia, pointing out the political and economic influence over the media (which further reflected on the editorial policy of media and the practice of self-censorship by journalists), the political, financial and economic dependence of the Public Service Broadcaster and of the Broadcasting Council, inconsistent application of the media legislation, state advertising and campaigns as a source of income for some media, unlimited fines for defamation and insult, etc. There were numerous problems and they piled up throughout the last 20 years because the institutions, but on the other hand media workers themselves as well, handled them inefficiently.

The first Law on Broadcasting Activity was adopted in 1997, thereby laying down the legal basis for regulatory intervention in the broadcasting field. However, the key competences were not fully given to the new regulator – the Broadcasting Council, which during the first two years of the implementation of the Law, faced its own limitations and inefficiency, which, even then, resulted in a call for changing the regulation. The new Law on Broadcasting Activity adopted in November 2005 was almost entirely aligned with the Television without Frontiers Directive and with the Council of Europe standards in the broadcasting field. There were several key changes in the Law that laid down the institutional framework for achieving full decision making capacity of the newly appointed members of the regulatory authority: the Broadcasting Council decides on allocating, revoking or renewing broadcasting licenses, it has powers to adopt by-laws and to conduct supervision over the implementation of the Law, the by-laws and the specific requirements in the broadcasting license, it has powers to impose sanctions (although with some limitations), powers to handle complaints etc.

In 2011, a step further was made in promoting the situation in the media landscape in Macedonia. Namely, several initiatives were undertaken which united the majority of media workers. The Association of Journalists of Macedonia started talks with the Government on the key issues in the media sphere, grouped under the following categories: consistent respect for the laws in the media sphere, transparency in the allocation of budget funds for public and government campaigns, strengthening the Public Service Broadcaster MRT, decriminalization of the acts of defamation and insult, as well as improvement of professional standards in journalism. Furthermore, MIM and the Association of Journalists of Macedonia, supported by the Embassy of the Kingdom of the Netherlands gathered at the same table approximately forty eminent media professionals - editors, journalists, experts, academic professors - who prepared an Action Plan containing all the problematic areas of the media landscape. The idea is for this plan to serve as a basis/ platform upon which all further policies and steps directed towards improvement of the media landscape in Macedonia shall be built and implemented.

In addition, the Ministry of Transport and Communications was the one which drew one of the ideas to regulate the media landscape, proposing a draft to adopt a new law on media, which apart from traditional broadcasting, audio and audiovisual media services and issuance of electronic Internet pub-



lications, comprised as well a proposal to regulate the press issuance and the distribution of press, and it additionally penetrated the editorial aspects of the functioning of all media, including the electronic publications. The idea for such a new law on media divided the media community, and in the course of December 2011 and January 2012, there was an ongoing public discussion regarding the draft proposed by the Ministry and on the issue which direction the further harmonization of laws with the European legislation should take.

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UNESCO's Media Development Indicators were endorsed in 2008 by UNESCO's International Programme for the Development of Communication (IPDC), a special programme designed "to contribute to sustainable development, democracy and good governance by fostering universal access to and distribution of information and knowledge through strengthening the capacities of developing countries and countries in transition in the field of electronic media and print". The aims were developing technical and human resources, promoting the transfer of technology, strengthening pluralism and independence of media, democratization and human rights. In the last decade, promoting media pluralism and diversity has become one of the three main priorities of projects supported by the International Programme, alongside the building of human resources and community media development.

The first implementation of UNESCO media development indicators in Europe was undertaken in Croatia by the Centre for Media and Communication Research (www.cim.fpzg.hr, in 2008/09), and published in: Peruško, Z., Perišin, T., Topić, M., Vilović, G., Zgrabljic Rotar, N. (2011) Hrvatski medijski sustav prema UNESCO-ovim indikatorima medijskog razvoja. Zagreb: Politička misao, and in English version: Peruško, Zrinjka (2010) Media Development in Croatia According to UNESCO Media Development Indicators. Paris: UNESCO (forthcoming, http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/ipdc_mdi_croatia.pdf).

UNESCO's indicators include 5 main media development categories, which are a compound part of each media system, and reflect its level of development:

1. A system of regulation conducive to freedom of expression, pluralism and diversity of the media
2. Plurality and diversity of media, a level economic playing field and transparency of ownership
3. Media as a platform for democratic discourse
4. Professional capacity building and supporting institutions that underpins freedom of expression, pluralism and diversity
5. Infrastructural capacity is sufficient to support independent and pluralistic media

The analysis of the media landscape according to UNESCO's indicators, conducted by MIM, both in span and in content, is the first of this type in Macedonia. Hoping that we shall turn the focus towards the situation of the media landscape in Macedonia, we emphasize the need for the existence of such a mechanism for continuous and consistent scanning of the media landscape.



I. A SYSTEM OF REGULATION CONDUCTIVE TO FREEDOM OF EXPRESSION, PLURALISM AND DIVERSITY OF THE MEDIA

A. LEGAL AND POLICY FRAMEWORK

1.1 Freedom of expression is guaranteed in law and respected in practice

Indicators:

- National law or constitutional guarantee on freedom of expression
 - Country has signed and ratified relevant treaty obligations, with no significant exemptions
 - Public is aware of and exercises its right to free expression, and there are tools and bodies which guarantee the concrete application of this right
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Freedom of expression in Macedonia is regulated by Article 16 of the Constitution, guaranteeing freedom of conviction, conscience, thought and public expression of thought, freedom of speech, public address, public information and free establishment of institutions for public information. Freedom of expression is also guaranteed with the Law on Broadcasting Activity (Official Gazette No.100/2005), which aim is to ensure “freedom of expression in the broadcasting activity, in accordance with the Constitution of the Republic of Macedonia and the international treaties ratified and acceded to by the Republic of Macedonia” (Article 2). According to the Law, “radio and television programmes shall be based on the right to free reception and transmission of information and the right to freedom of expression” (Article 68). Regarding the restriction of freedom of expression, the Law on Broadcasting Activity, in accordance with Article 10 of the European Convention for the Protection of Human Rights, prohibits transmission of programme contents aimed at the violent overthrow of the constitutional order of the Republic of Macedonia or which encourage or invite to military aggression or incite national, racial, gender or religious hatred and intolerance (Article 69), as well as programmes that may cause serious damage to the physical, mental and moral development of children and youth (Article 70). Legal guarantees for journalistic and media freedoms were strengthened by introducing partial abolition of imprisonment as a punishment for defamation in the year of 2006; however, the Criminal Code still entails the provisions on defamation and insult as criminal acts against honor and reputation. (See parts I.C.1.8 and I.C.1.9)

The Republic of Macedonia has ratified the relevant European and international legal documents guaranteeing and regulating the protection of freedom of expression. The European Convention for the Protection of Human Rights and Fundamental Freedoms was ratified in 1997, by which, Article 10 regulating the freedom of expression (that is, the right of everyone to hold opinions and to receive and impart information and ideas, without interference by a public authority and regardless of frontiers), has normatively become a part of its legal order and practically applicable in the court practice. Macedonia has also accepted the European Convention “Television without Frontiers,” which was ratified in 2003 and participates in the preparations for its approximation with the latest European Union Audiovisual Media Services Directive. Macedonia is among the few countries in South East Europe which have also accepted the Framework Convention for the Protection of National Minorities, ratified in 1997, which



refers to ensuring equal access for national minorities to media and the possibility for establishing minority media with a view to promoting tolerance and enabling cultural pluralism.

Normatively, Macedonia has a satisfactory framework for guaranteeing and protecting freedom of expression. However, several domestic and foreign organizations expressed concern about the freedom of expression in the country during the last couple of years, especially during 2010 and 2011. Thus, The Association of Journalists of Macedonia (AJM), the Macedonian Institute for Media (MIM) and the Independent Union of Journalists and Media Workers (SSNM), on the occasion of commemorating May 3rd, the Press Freedom Day (2011), emphasized that the political parties put strong pressure over the media, using them in the political battle with those who have different opinions, that the media serve their owners as an instrument for achieving the political and business interests, that the laws that regulate the media landscape are implemented selectively, that the government advertising undermines the media independence, and editorial teams do not have the power to resist the cross-pressure coming from the political centers and the owners.¹ The president of AJM also underlined that the press freedom situation, especially in 2011, regressed: "Freedom of expression in Macedonia is an exception, not the rule. There cannot be freedom when the media and the journalists are brought to bear fierce political and financial pressure by the government. There is no atmosphere ensuring conditions for the development of professional media which will serve as a watchdog of the government. We have lack of respect for laws or selective implementation and bypassing of laws, social insecurity of journalists, distorted market, lack of respect for the independence of the regulatory body, a weak public service broadcaster, public information is hardly accessible. It is not a coincidence that Macedonia is treated by relevant international organizations as a country with partial press freedom..."²

The Helsinki Committee for Human Rights of the Republic of Macedonia, in its June/ July 2011 Report³ criticizes the Government for suppressing freedom of speech, as well as for silencing media critical of the Government: "Strong pressure on the media, the attempt to disqualify individuals and individual media, laying-off journalists because they have benefited from their democratic right to protest or have appeared in a "hostile TV-station" and finally, closing down several media critical of the Government, darkens the media landscape in the country, and thus the democracy as well."

Furthermore, many international organizations have continuously warned of problems in the media landscape for several years. The last Progress Report of the European Commission from October 2011 states that the overall constitutional and legal framework for the protection of freedom of expression is generally in place, but attention needs to be paid to ensuring that its implementation is consistent, transparent and in line with the case law of the European Court of Human Rights. The Report emphasizes that media ownership remains opaque, highly concentrated and with strong political links. The constantly repeated remarks in most of the EC Reports on Macedonia, relate to the political influences over media and journalists, to the influence of government advertising over the editorial policy of media, to political pressure on the Broadcasting Council and the Public Service Broadcaster MRT and to the fact that there is still no sustainable funding ensured for these two institutions.

1 „Медиумскиџе слободи во Македонија-сериозно загрозуени“ (*Media Freedoms in Macedonia – seriously endangered*). Joint statement of AJM, MIM and SSNM, 3 May 2011. Available on: www.mim.org.mk

2 Naser Selmani, interview for *Dnevnik* daily, 23 September 2011. Available on: <http://www.dnevnik.com.mk/default.asp?ItemID=9B822F38EA6F2141A7D737F5E8840363>

3 HCHR (2011) „*Monthly report on the Human Rights in the Republic of Macedonia for June/July*“. Skopje: HCHR. Available on: <http://www.mhc.org.mk/?ItemID=5A287426D7EC4D4796C33CBC98885F1E>



In November 2011, a delegation of the International Partnership Group on Freedom of Expression visited Macedonia. The delegation was comprised of representatives of notable independent international organizations in the field of freedom of expression and freedom of media, among which the World Association of Newspapers and News Publishers (WAN-IFRA), the South East Europe Media Organization (SEEMO), the International Press Institute (IPI), Freedom House, Article 19, Open Society Institute (OSI), Media Development Institute (MDI), etc. The mission met with representatives of the Government and party representatives, prominent editors and journalists, representatives of media associations and organizations, the labor union, regulatory bodies and competent ministries in the media landscape with an aim to conduct realistic assessment of the media environment in Macedonia. In the joint statement it is noted that media freedom had deteriorated alarmingly over the past year and it is called for urgent reforms of the legal framework on the media, as well as for more equitable enforcement of existing media laws. Key findings of the mission include absence of media pluralism and non-transparent ownership structure. At the same time, the Government is recommended to decriminalize defamation, to ensure protection of the freedom of expression by means of reforms in the Criminal Code, as well as to develop a genuine and not politicized public service media. Also, the statement declares that the pre-trial detention of managers of media companies since 2010 (referring to the A1 TV case) is contrary to international and European human rights standards.⁴

Moreover, the latest 2011 Freedom House Report⁵ emphasizes that press freedom in Macedonia suffered setbacks compared to previous years, that is to say, the 4.50 rating was the lowest compared to previous years beginning from 2002 onwards. Namely, from 2004 to 2010, the independent media rating was 4.25, in 2003 - 4.00, whereas in the year of 2002 it was the highest - 3.75. (The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress, and 7 the lowest.)⁶ The Report emphasizes that the media suffered sharp setbacks that undermined their watchdog role. It is concluded that "more journalists ended up in court as the number of defamation and insult lawsuits hit a record high in 2010", as well as that fines sentenced were rather high. The Report states that many lawsuits against journalists were filed by politicians, judges and government officials, that self-censorship was on the rise, as well as that the government spending on advertising and promotion further threatened media independence, as there was evidence to suggest advertisements were awarded to media close to the ruling coalition. The Report also points out the case of arresting Velija Ramkovski, the owner of the A1 television station, the country's leading medium,⁷ as well as several of his employees, on tax-evasions charges. This event followed earlier police raids conducted by the Public Revenues Office, which at the end of 2010 entered the A1 television station and the three newspapers related to Ramkovski, whose media tend to be highly critical of the Government. The overall rating of Freedom House for 2011 regarding the independence of media is that they were "highly partisan, leaving little room for dispassionate reporting", as well as that "many journalists lack the resources and professional skills to carry out complex investigations and to serve as watchdogs."⁸

4 Freedom House (2011) Press Release: "Macedonia's Free Speech Backsliding Worrisome". Available on: <http://www.freedomhouse.org/template.cfm?page=70&release=1524>

5 Freedom House (2011) „Freedom House Report 2011“. Available on: <http://www.freedomhouse.org/template.cfm?page=251&year=2011>

6 Freedom House (2011) „Nations in Transit Ratings and Averaged Scores“ in „Freedom House Report 2011“. Available on: http://www.freedomhouse.org/sites/default/files/inline_images/NIT-2011-Macedonia.pdf

7 For more information on the case of TV A1 see part III.F.3.13.

8 Freedom House (2011) „Nations in Transit Ratings and Averaged Scores“ in „Freedom House Report 2011“. Available on: http://www.freedomhouse.org/sites/default/files/inline_images/NIT-2011-Macedonia.pdf

The organization Reporters without Borders (RWB), in the reaction entitled “*Disastrous summer for Macedonian media, with TV station and three dailies closed,*” during the summer of 2011 expressed concern about the disrupted press freedom in Macedonia.⁹ „An influential businessman and media baron, Ramkovski was an unconditional supporter and partner of Prime Minister Nikola Gruevski’s Government from 2006 to 2008 but distanced himself in 2009. Thereafter, Plus Produkcija became the bugbear of the Government, which found it hard to accept A1’s outspoken criticism.”¹⁰ According to the organization, the journalists cannot be blamed for any misconduct by their media owners; a staggered debt payment schedule could and should have been negotiated to ensure the survival of these independent media. The report concludes that “the Government clearly seized the chance to silence some of the few media that criticize it.”¹¹ RWB called on the Government to act consistently in the A1 case and to respect the law, pointing out that the A1 broadcast frequency was withdrawn by the Agency for Electronic Communications (AEC) without the Broadcasting Council’s approval. The organization called on the Government not to let broadcast licenses be rescinded arbitrarily and to respect scrupulously the Council’s prerogatives.¹² RWB also condemned the process of reforming the Broadcasting Council, i.e. the increase in the number of its members from 9 to 15,¹³ which according to the organization is an attempt of the Government to bring this body under its control. The reaction also directed towards the dismissal of all the members of the state MRT TV Board of Governors, some of them reaching the end of their term,¹⁴ as well as the dismissal of the president of the Independent Union of Journalists and of other labor union active members.¹⁵

However, despite such severe evaluation by the international and the domestic community, it should be noted that the opening of new media in Macedonia critical of the Government is not obstructed. A proof of this is the fact that towards the end of 2011 one daily appeared on the market, and two others were announced to appear. The daily *Fokus*, which is in the same ownership as the most circulated weekly *Fokus*, unified journalists who previously worked in the A1 TV station and the newspapers that were part of the same media group, none of them operating now. Both of the newspapers are critical towards the Government.

It is undeniable that Macedonia as well, as all other post socialist countries, including the five that became EU member countries last (Slovenia, Hungary, the Czech Republic, Slovakia, Bulgaria), had problems with the freedom of expression and with the public and media landscape in general. The pluralism of the media landscape and the establishment of market conditions and competition did not automatically contribute to an increase in the level of freedom of expression, articulation of critical public and participation of citizens in political processes. In Macedonia, freedom of expression was first equaled to the record high, but in fact inadequate number of media taking into account the size of the territory, the number of population and the economic potentials (in 1997 there were over 300 illegal radio and television stations). When their number reduced to approximately 120, following the first competitions for license awarding in the year of 1998, it appeared that they positioned themselves on

9 Reporters Without Borders website, <http://en.rsf.org/macedonia-disastrous-summer-for-macedonian-17-08-2011,40797.html>

10 Ibid.

11 Ibid.

12 For more information on the case of TV A1 see part III.F.3.13

13 For more information on the amendments to the Law on Broadcasting Activity regarding the composition of the Broadcasting Council see part I.B.1.6

14 For more information on the dismissal of the MRT Board of Governors see part III.B.3.3

15 Reporters Without Borders website. Available on: <http://cima.ned.org/disastrous-summer-macedonian-media-tv-station-and-three-dailies-closed>



the advertising market disrupting the competition, which culminated in market distortion by media groupations, which by means of so called "tied offers" sold their advertising time and on that basis offered discounts by 90%.

Regarding the protection mechanisms of the right to freedom of expression, the practice shows a very ambivalent, and essentially, a contradictory situation. In the court practice of Macedonian courts of first and second instance in cases related to freedom of expression, the case law of the European Court of Human Rights is not applied. Both media and legal experts ten years ago proposed that in such cases only some courts in the country with specially trained staff should be competent to decide. The Supreme Court, as the court of highest instance, generally expressed its stance on protection of freedom on several occasions, but a procedure has never been initiated before this court for protection of the legality for its decisions to represent the inception of domestic precedent law.

The Constitutional Court, as the highest judicial authority, pursuant to Article 110 of the Constitution of the Republic of Macedonia, protects the freedoms and rights of the individual and the citizen relating to the freedom of conviction, conscience, thought and public expression of thought, political association and activity as well as to the prohibition of discrimination among citizens on the grounds of sex, race, religion or national, social or political affiliation. In the overall practice of the Constitutional Court, until the year of 2010, not a single violation has been determined relating to the freedom of thought and public expression of thought.¹⁶ In line with its competences, the Constitutional Court acts upon individual initiatives, but it does not decide upon separate court decisions, only on laws or other acts violating or hindering the exercising of the right to freedom of expression. In other words, it may abolish a part of or an entire law or by-law restricting the right to freedom of expression, but it may not intervene in relation to a precise court decision. The last initiative before the constitutional judges on protection of the freedom of public expression of thought was filed by a columnist in the Dnevnik daily newspaper, who was proclaimed guilty by the Basic and Appellate Court for the crimes of defamation and insult, because of the allegations in his column. In this case, the Constitutional Court rejected the request for protection of the freedom of public expression of thought, since it decided that "[...] within the freedom of public expression of thought, there cannot be untruths or insults brought into the open."

For larger and essential affirmation of the freedom of expression the journalists themselves and the media may contribute a lot, by strictly respecting the right to reply and correction, in accordance with Article 16 of the Constitution. At the same time, professional journalistic standards bind to a mandatory consultation of two sources of information, involved in the process of creation of the journalistic - media content. However, the examples of editorial boards apologizing to natural persons or legal entities for unverified and damaging placement of information about them, whereby the potentially published correction does not correspond to the space and time of the information to which the correction relates, are rare. There are examples of some editorial boards refusing to publish a refutation even after a court order to do so, giving the excuse that it would damage their credibility, the publishers', etc. The European Convention for the Protection of Human Rights and Fundamental Freedoms in Article 11, as already known, determines that exercising the freedom of expression should not be done in a manner which shall restrict or disable the act of exercising the freedom of expression for someone else.

¹⁶ Nikolovska, Caca Margarita et al. (2010) Overview of the Legal Remedies in Republic of Macedonia through the Light of Effective Protection of the Rights and Freedoms of Citizens. Skopje: Institute for Human Rights. Pg. 13-14. Available on: http://www.ihr.org.mk/images/pub/pregled_na_pravni_lekovi.pdf



1.2 The right to information is guaranteed in law and respected in practice

Indicators:

- National law or constitutional guarantee on the right to information
 - Country has signed and ratified relevant treaty obligations, with no significant exemptions
 - Public is aware of and exercises right to access official information
 - Public bodies release information both pro-actively and on demand
 - Effective and efficient appeals mechanism via independent administrative body e.g. information commissioner or ombudsman (statistical information)
 - Any restriction on grounds of protection of personal privacy is narrowly defined so as to exclude information in which there is no justifiable public interest.
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The right to access public information is stipulated by the Constitution (Article 16, paragraph 4), stating that “free access to information and the freedom of reception and transmission of information are guaranteed.” This right is also regulated by the Law on Free Access to Public Information, adopted in January 2006, which goal is to provide for publicity and openness in the operation of information holders (state administration bodies and other institutions and organizations - legal entities and natural persons performing public competences), and to ensure natural persons and legal entities their right to free access to public information, as well as to determine that information holders are bound to provide for public information throughout their operation.¹⁷

The Commission for Protection of the Right to Free Access to Public Information takes care of the implementation of the provisions of the Law on Free Access to Public Information. The commission is an independent body (whose members are appointed by the Macedonian Parliament), which apart from deciding upon appeals against the decision and conclusion whereby an information holder rejects a request to access information filed by an information requester, it also compiles and publishes a list of information holders, issues opinions on draft laws regulating free access to information, cooperates with information holders regarding the exercising of the right to access information, etc.

According to the Law, the procedure for requesting access to public information begins when the requester files a request (oral, written or in electronic form) (Article 12). The information holder is bound to answer the requester’s request immediately, or within 30 days following the date of information holder’s receipt of such request at latest (Article 21), or due to the large scope of the requested document, within 40 days following the date of receipt of the request (Article 22). If the information holder has rejected the request, the requester has the right to file an appeal within 15 days following the date of the requester’s receipt of the relevant decision. The appeal is filed to the Commission for Protection of the Right to Free Access to Public Information, as follows:

- a) on the grounds of “silence of the administration” - if the information holder fails to ensure the requester access to information within the legal time period, if it fails to reach and provide the requester with the decision for partial or complete rejection of the request (Article 20).

¹⁷ Law on Free Access to Public Information. Available on: <http://www.komspi.mk/>



b) should the requester consider that the information he/she has become acquainted with is not the information stated in his/her request, he/she may file a request anew, upon which the information holder is obliged to answer within ten days at the latest following the receipt of the repeated request (Article 24).

c) if the information holder rejects the request completely or partially considering the information to be classified (Article 6 and Article 26), thereby having conducted "a public interest test".

Otherwise, an exception to the right to free access to public information, according to the Law, is foreseen in case classified information of appropriate degree of secrecy is requested; or personal datum the disclosure of which would mean violation of personal data protection; information on archive work having been identified as confidential; information the disclosure of which would mean violation of the confidentiality of the tax procedure; information obtained or compiled within an investigation; a criminal or a misdemeanor procedure, for the purpose of conducting an administrative or a civil procedure, the disclosure of which would have harmful consequences for the course of the procedure itself; information relating to commercial and other economic interests, including the interests of monetary and fiscal policies, the disclosure of which may have harmful consequences for the exercising of a particular function; information jeopardizing industrial or intellectual property rights, etc. (Article 6).

However, starting from the imperative that the public has the right to know everything, even in such situations where restrictions are determined, the heads of institutions on central state or local level have to find appropriate forms of informing. If contrary, an atmosphere of distrust, speculations, faulty information, "underground" rumors (most often on behalf of fictional information holders) is created in the society. This especially happens if the actors are well-known to the public or if they are public officials holding significant functions, including media functions.

According to the commission's data, the number of citizens who have exercised their right to free access to public information in the period between 2006 and 2010 has risen from 513 to 2.379. In 2010, out of a total of 2.379 requests for free access to public information, 2.208 received a positive reply. However, the Commission states that the interest of the citizens to exercise their right to free access to information is low, and a reason for this is that they are insufficiently acquainted with the opportunities that the Law offers.¹⁸ The annual 2010 Report of the Commission emphasizes that there is a large lack of knowledge and understanding of the essence of the right to free access to public information, and not only among public information holders, but yet more, among citizens as requesters of such information.

During these five years since the functioning of the Law, 1911 appeals have been filed to the Commission due to not allowed access to public information by holders. The Commission has positively decided upon 1480 appeals, that is to say, it has obliged the information holders to allow access to the requested public documents. In 2006, 35 written documents were filed to the Commission; in 2007 - 330 appeals, of which 250 due to silence of the administration; in 2008 - 670 appeals, of which 100 coming from natural persons, and 570 from citizens' associations and representatives of non-governmental organizations; in 2009 340 appeals were submitted, and in 2010 - a total of 540.¹⁹

¹⁸ Stanojovska, Ljubica (Ed.) (2009) Examples of the work of the Commission up to now. Skopje: Commission for Protection of the Right to Free Access to Public Information and Macedonian Institute for Media. Pg. 6-7

¹⁹ Commission for Protection of the Right to Free Access to Public Information (2011) *Annual report of the Commission for Protection of the Right to Free Access to Public Information from 1 January to 31 December 2010*. Source: Commission for Protection of the Right to Free Access to Public Information



Table 1. Comparative data from the moment the Law entered into force

Year	2006	2007	2008	2009	2010
Holders	445	1393	1460	1475	1380
Received annual reports	246	791	690	884	802
Filed requests to information holders	513	1476	1876	2106	2379
Positively replied requests	482	1330	1765	1890	2208

Source: Annual 2010 Report, Commission for Protection of the Right to Free Access to Public Information

When it comes to journalists and the media, it should be emphasized that deadlines for receiving information are completely inappropriate, even for stories related to the so called “snail-paced” journalism. Therefore, it is necessary to introduce amendments to the present Law, by which the reply time to journalists and editorial boards would be reduced to 48 hours, and only upon exception, it would be extended for up to 7 days. If contrary, it will not have the significance of a tool for timely and impartial information, because on the market of information, reputation and profits, the one who is first and credible is the one who benefits.

The current Law on Free Access to Public Information also provides no clear solutions for determining what public information is when it comes to state administration institutions, and what public information is when it comes to public entities or corporations, whose activity and information about them is of utmost importance for certain vital sectors, such as health, natural environment, etc. It is known that corporations’ management are doing everything they can for certain types of information - especially if they are related to a certain kind of neglect or impermissible pollution or effects - not to appear in public.²⁰

With regards to whether institutions release information only upon request of citizens or also pro-actively, the datum may be noted that almost all state and public institutions have Internet pages where they place current information, announcements, journals, publications and other materials. So, for instance, the parliamentary webpage includes information about sessions, adopted laws, as well as about all parliament’s activities and projects; the Ministry of Justice, on the other hand, has published a list of public information of its field on its webpage, has released the request for access to information, as well as the name and surname of the official in charge of information mediation; the Ministry of Interior publishes information about current activities, daily journals, announcements, campaigns, etc. Furthermore, all public information holders, in line with the Law, should designate officials who will communicate with citizens while exercising the citizens’ right to free access to information.

However, there is no thorough and comprehensive analysis of all state and public institutions with cross-data concerning to what extent institutions have a raised awareness about the principle of trans-

²⁰ The European Court of Human Rights in Strasbourg showed even in the year of 1979 in the “Sunday Times” case that when testing a sedative or any other medication prior to placing it on the market, the medium has the right to publish information. The Court clearly concluded that not only do media have the right to possess such information, but also the public has the right to know it. The paradox of this example is that following the previous (abolished) verdict of the English court with respective jurisdiction on prohibiting the publication of information, pregnant women who had taken the drug (thalidamid) later gave birth to deformed children.

parency and, in this context, on ensuring free access to information pro-actively, on their own initiative or only upon request of the citizens. That would be a significant indicator for public promotion of policies that they create and/or govern and for development of good practices of social governance, which also mean active participation of citizens. Forum - Centre for Strategic Research and Documentation has conducted a research on transparency and accountability of all municipalities in Macedonia during 2010, which offers a specific insight. For the research on this issue, several criteria were determined: firstly, the condition of municipalities' webpages, which were awarded points according to their updating, the quantity and quality offer of contents, the opportunity to access public heralds of municipalities and forms or documents related to the work of the municipalities, the possibility to report an issue to municipal services and the existence of an accessible archive of replies to these reports. Another criterion was whether a public relations service and/or person existed, as well as how much time municipal services needed to fill in and return the questionnaire.²¹

The findings of the research determine that out of a total of 84 municipalities plus the City of Skopje, only 14 municipalities had no websites in 2010, but 43, on the other hand, had Internet sites which were regularly updated. According to the citizens' perception, the average rating of transparency of local self-government units in the country was with an average value of approximately 3 (on a scale of 1 to 5). For the inadequately developed transparency of units of self-government, several reasons are listed:

„[...] As to what may be seen in the field, an insufficiently developed capacity of the local self-government is evident, for it to really be a service of the citizens. Municipalities still have not fully understood the importance of them having to be transparent before the citizens for everything they do. [...] Sometimes, mayors want to have the whole situation under control and to be the only ones who decide and to be competent for information which should appear in public, by which they practically usurp the right of municipal services and professional administration within their own jurisdiction to inform citizens of certain policies. [...] Another reason that some municipalities crampingly defend their own intangibility and autonomy, often not allowing any access to even public information, is the need to hide some deviations and to camouflage certain illegal activities in the municipality. Such municipal authorities would like for citizens not to meddle in their policies or to participate in the decision-making process. A consequence of this is the still insufficiently developed transparency of local self-government units, and the final outcome is dissatisfied citizens.“²²

²¹ Center for Strategic Research and Documentation - Forum (2011) Research on transparency of municipalities. Skopje: Forum - CSRD. Available on: <http://www.forum-csrd.org.mk/documents/Transparentnost%20na%20opstini%20final.pdf>

²² Ibid. Pg. 13-14



1.3 Editorial independence is guaranteed in law and respected in practice

Indicators:

- Any law or policy on editorial independence
 - Government, regulatory bodies or commercial interests do not influence, or seek to influence, editorial content of broadcasters or press
 - Reports by credible agencies about editorial independence issues of the Public Service Broadcaster or of commercial media
 - Broadcasters are not required to allocate broadcasting time to, or carry specific broadcasts on behalf of the government (aside from obligatory direct access political broadcasts during elections)
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Issues concerning editorial independence of broadcasters in Macedonia are dealt with by the Law on Broadcasting Activity, whereas contents in printed media should be in accordance with the provisions of the Code of Journalists.

The Law on Broadcasting Activity (Official Gazette, No. 100/2005) does not encompass explicit provisions on editorial independence of broadcasters from their owners, from political centers of power or from the state. However, the commitments for independence of editorial policy may be recognized in several articles. Foremost, a goal of the Law is to provide for transparency, independence and non-discrimination in regulatory processes, as well as for an independent and efficient public service broadcaster (Article 2). The part determining programme standards states that broadcasters should base their programmes on “autonomy, independence and accountability of broadcasters, i.e. editors, journalists and other authors involved in the creation of programmes and editorial policy” (Article 68).

The Law refers to protection of editorial independence during elections as well, stipulating that the Public Service Broadcaster MRT and the commercial broadcasting companies that decided to cover the elections shall be obliged to adopt their own internal rules of coverage based on the principles of autonomy, independence, independent editorial policy, and accountability for the media coverage of the elections, and shall be obliged to broadcast the rules in their programmes (Article 80).

Editorial independence of media from political centers of power, as commitment of the legislator, is however best recognized in Article 11 of the Law, according to which political parties, state bodies, bodies of the state administration, public enterprises, local self-government units, public office holders and members of their families, may not pursue broadcasting activity or appear as founders or co-founders of broadcasters, or acquire ownership of broadcasters.

Regarding editorial independence with printed media, the provisions of the Code of Ethics of Journalists of Macedonia are in force. Article 14 stipulates that reporting on political processes, especially elections must be impartial, balanced and fair, and it is emphasized that the journalist must make professional distance from political entities.

Of the printed media, only the German media concern WAZ, owning the three daily newspapers - *Dnevnik*, *Utrinski vesnik* and *Vest* through the local company Media Print Macedonia (MPM)²³, has its own

²³ In January 2012, MPM was sold to the Macedonian company “Orka Holding”

special standards on editorial independence. Namely, it has signed the OSCE Charter on respecting the standards of freedom of media.²⁴

Independence of the editorial policy of the medium is also regulated by the provisions on illegal media concentration under the Law on Broadcasting Activity.²⁵ The illegal media concentration has presented for years a serious problem in the media landscape in Macedonia not only with regards to the influence over editorial policy, but also with regards to the disruption of competition (some cases are elaborated in II.A.2.1).

About the (in)dependence of editorial policy speaks the example of the influence that the owner of the now not operating A1 television station had, who would say for the press in 2006: “[...] that is my television and the general editorial policy is my concern.”²⁶ Legal provisions on preventing illegal media concentration not only are not equitably applied, but also the Broadcasting Council and the Commission for Protection of Competition as regulatory bodies competent in this field shifted the responsibility to each other.

In spite of the existing legal framework, the practice shows that several media, especially the Public Service Broadcaster Macedonian Radio Television (PSB MRT) suffer political influences or are biased towards certain political option. MRT, according to the Law on Broadcasting Activity, should have editorial independence and institutional autonomy (Article 2, 116, 133), but throughout these past years it has been constantly under the influence of ruling parties. This was also noted in the Progress Reports of the European Commission from 2006 to 2010, which continuously warned against the lack of financial autonomy of PSB and the influence over its editorial policy. The reports pointed out the weak payment of the broadcasting fee as a main reason for the economic and institutional dependence of MRT of the Government, and thus the programme dependence. The problem culminated in August 2008 when amendments to the Law on Broadcasting Activity were adopted, envisaging a possibility for MRT’s bankruptcy, which was evaluated by the European Commission as an unacceptable solution which seriously endangers the independence of the Public Service Broadcaster (during the 5th meeting of the Stabilization and Association Committee held on 18-19 September 2008). Later, following the amendments to the Law on Broadcasting Activity from 2010, the provisions envisaging a possibility for MRT’s bankruptcy were abrogated.

In the European Commission Progress Report for 2009 it was emphasized that public expenditure on state advertising has the potential to undermine editorial independence of media, whereas, in the report for 2010, it is emphasized that the media remained divided along ethnic and political lines and self-censorship was widespread.²⁷

Political influence over the editorial policy of media was also noticed while reporting during the electoral campaign for the Parliamentary elections held on 5th June 2011. Thus, the OSCE/ODIHR Report underlines that even though a wide range of media provided voters with diverse and extensive coverage of the campaign, still, the majority of broadcasters followed partisan editorial policies. The quantity and content of campaign coverage by the Public Service Broadcaster significantly favored

²⁴ Interview with Bodo Hombach, Managing Director of WAZ, for *Dnevnik*, March 18 2006

²⁵ For more information see part II.A.2.1.

²⁶ „Рамковски: Нормално е да се мешам во уредувачката политика на А1“ (*Ramkovski: It is normal by me to meddle in the editorial policy of A1*), *Utrinski vesnik*, 16 October 2006

²⁷ European Commission. Reports on the Progress of the Republic of Macedonia for 2010 and 2011. Available on: http://www.sep.gov.mk/content/Dokumenti/MK/mk_rapport_2010_mk.pdf



the ruling parties and criticized the opposition, which is contrary to legal obligations and the mandate of the public broadcaster.²⁸ The *“Report on monitoring the media during the early Parliamentary elections 2011”* prepared by the Macedonian Institute for Media held the same line, according to which most of the commercial media, as well as the Public Service Broadcaster MRT, reported in a partisan and imbalanced manner, both in quantity and in quality, which was obvious by explicitly taking political sides in the news and in the programme intended for the electoral campaign.²⁹

Taking in consideration the situation in the media landscape, the Association of Journalists of Macedonia, the Macedonian Institute for Media and the Independent Union of Journalists, in the announcement on the occasion of commemorating May 3rd - the Press Freedom Day (2011) warned that “the media serve their owners as an instrument for achieving their political and business interests”, a situation chronically pulling through throughout the previous ten years. These three media associations called on “political parties to stop interfering in the work of the media, on media owners to stop using the media as megaphones of the political and business centers of power, and on editors to stand for the profession and for their journalists and to stick to the professional standards and the ethics.”³⁰

Otherwise, laws in Macedonia do not impose broadcasters to devote time to specific government programmes, nor do they prescribe that the government may seize control over the media in case of urgency.

1.4 Journalists’ right to protect their sources is guaranteed in law and respected in practice

Indicators:

- Any legal guarantee of the right of journalists concerning confidentiality of sources
 - Journalists can protect confidentiality of their sources without fear of prosecution or harassment
 - Documented cases of journalists being forced to disclose sources
 - Evidence of media organisations or professional associations actively defending the right to protect sources
-

Protection of sources of information in the mass media is guaranteed in the highest legislative act, the Constitution (Article 16), as well as in the Law on Broadcasting Activity (Article 68), stating that the confidentiality of sources of information should be respected, which falls under the basic principles of radio and television programmes.

In addition, the Code of Ethics of Journalists of Macedonia, following the same direction as the regulation, declares that “the journalist shall point out the source of information, but if the source demands to remain anonymous, the journalist shall protect him” (Article 4).

²⁸ OSCE/ODIHR. Statement of Preliminary Findings and Conclusions for the Early Parliamentary Elections 2011. Available on: <http://www.osce.org/odihhr/78439>

²⁹ Macedonian Institute for Media (2011) „*Final Report from the Media Monitoring for the Parliamentary elections 2011*“. Available on: http://mim.org.mk/attachments/338_FINALEN%20IZVESTAJ_MONITORING%20NA%20MEDIUMITE%20ZA%20IZBORITE%202011_FINAL_j.pdf

³⁰ MIM website, www.mim.org.mk



Lawsuits due to not disclosing sources of information have not been noticed, on the other hand, however, there are cases when journalists have been sued on the grounds of defamation or insult, and the plaintiffs have requested from them to also disclose the sources of information.

1.5 The public and civil society organizations (CSOs) participate in shaping public policy towards media

Indicators:

- State creates genuine opportunities for consultation with non-state actors about legislation and public policy towards the media
 - Evidence of government commitment to work with civil society to develop law and policy on the media (e.g. conferences, seminars, public fora, official engagement in debates on the airwaves or in print)
-

The contribution of the non-governmental sector in Macedonia marks oscillations in the creation of legislation on media in the past 2 decades. The beginnings of the establishment of a legislative framework on media were encouraging, but as time was passing by, the interest of politics to include the non-governmental sector in the further process of designing legislative solutions declined. Throughout the 2011, there were several attempts whereby the non-governmental sector did not succeed imposing its suggestions on the Government and on other state institutions. Such was the case with the government proposal to enlarge the Broadcasting Council from 9 to 15 members, which despite the opposition of media organizations, was adopted by the Parliament.

The mutual cooperation between the government and the non-governmental sector started intensifying in 2003 during the adoption of the Law on Broadcasting Activity, which entered into force in 2005. The participation of several non-governmental organizations involved in the preparations to the Law was supported by foreign donors through several projects.

Since 2005 onwards, there has been certain cooperation, but the non-governmental sector did not actually have many opportunities to influence the process of adoption of laws. In 2006, on the initiative of AJM and MIM, and with support of OSCE, the Ministry of Justice intervened in the Criminal Code and partially abolished the imprisonment as a punishment for the acts defamation and insult, even though full abolition of the prison sentence was requested, as well as decriminalization of these acts.

Regarding the Law on Free Access to Public Information, on the other hand, the non-governmental sector was actively involved in the process of its preparation. Namely, even during the preparation of the first draft in 2002, the main remark of the non-governmental sector on the Law was regarding the status of the Commission for Free Access to Public Information, which was supposed to be a secondary government commission. Non-governmental organizations reacted at that time that its independence would be disrupted in this way. The Law on Free Access to Public Information was adopted in 2006, when this remark was accepted, and the Commission was formed as an independent body. Several non-governmental organizations have carried out various activities these past years with the purpose of efficient implementation of the Law, among which Pro Medija, the Macedonian Institute for Media and others. In this way, the Association of Citizens Pro Medija has conducted since 2002 researches and



trainings for citizens and officials handling public information, and it has also published guides for information requesters and holders within the Project on strengthening free access to information, financed by the OSCE Observation Mission. On the other hand, from 2007 to 2009, the Commission in cooperation with MIM, conducted trainings for 1000 civil servants responsible for mediating with public information and published few brochures for access to public information. However, one of the larger remarks related to this Law remains to be the reply time for institutions when replying to journalists' requests, which amounts to 30, that is to say 40 days, the same as for all citizens.

Moreover, in 2008, the Government proposed amendments to the Law on Broadcasting Activity with an aim to enable opening bankruptcy of the Public Service Broadcaster MRT. Despite all the warnings given by the non-governmental sector and the expert public that it is unimaginable for an EU membership candidate country to close the Public Service Broadcaster, the Government passed the Law. That part of the Law was reviewed in 2010 even after the European Union exerted strong pressure, so that the possibility to open a bankruptcy of the Public Service Provider was erased.

One of the examples where the non-governmental sector was not involved in the process of adopting laws in the media landscape were the latest amendments to the Law on Broadcasting Activity in July 2011, by which the number of members of the Broadcasting Council was raised from nine to 15. The Parliament adopted the amendments in shortened procedure, without consulting the Broadcasting Council and without a public debate. The Association of Journalists of Macedonia, the Macedonian Institute for Media and the Independent Union of Journalists requested for the amendments to be adopted in regular procedure with a view to giving an opportunity to all the stakeholders to express their stance, but the request was rejected, and the Law was adopted hastily in shortened procedure. The three associations requested "[...] every amendment to the regulation relating to media always [...] to be discussed and adopted carefully, by means of transparent and open process in which the needs and findings of media professionals, experts and professional media organizations shall be taken into consideration."³¹

In the middle of September 2011, activities were taken to open institutional talks on the promotion of freedom of media and the rights of media workers between the Government of the Republic of Macedonia and the Association of Journalists of Macedonia. At the beginning, a round table "Challenges and perspectives of the Macedonian media sector" was held, attended by representatives of the Government of the Republic of Macedonia and the Association of Journalists of Macedonia, as well as representatives of other media organizations, media, international and national institutions. A working group was formed, comprising representatives of the Government and of AJM, which will lead the process. At the first meeting of the working group, several topics were agreed on which shall be negotiated the following year, as follows: respect of the laws in the media landscape, transparency in the allocation of budget funds for public and government campaigns, strengthening the Public Service Broadcaster MRT, decriminalization of the acts of defamation and insult, as well as enhancing the professional standards in journalism.

While on the one hand, the dialogue between AJM and the Government was ongoing, on the other hand, the Minister of Transport and Communications presented a proposal for a new media law in

³¹ Statement of AJM, MIM and SSNM, 18 July 2011. Available on: http://mim.org.mk/index.php?option=com_content&view=article&id=341%3A2011-07-18-12-36-46&catid=39%3A2008-12-01-12-31-11&lang=mk



December 2011, which should harmonize Macedonian legislation with the European Audiovisual Media Services Directive and with the recommendations and standards of the Council of Europe and the European Commission, noted in the Macedonia Progress Report. The question for the adoption of such a law has been initiated on several occasions these years, but it has not met with support by the media community. The latest concept had been prepared in cooperation with the European Commission, through its Technical Assistance and Information Exchange Instrument (TAIEX). The expert from the mission in Skopje met with associations and non-governmental organizations, with representatives of the Broadcasting Council, of MRT, the operators, publishers of press and electronic publications. According to the announcements, the Ministry expected proposals by the stakeholders in the course of the month of December 2011, so that in January 2012 the potential text to be put on a public hearing. Media organizations were not included in the working group in the first phase of preparation of the draft-proposal.

This draft, in fact, apart from traditional broadcasting, audio and audiovisual media services and publishing electronic Internet publications, contains a proposal for regulation of the press publishing and distribution, and it additionally enters the editorial aspects of the functioning of all media, including electronic publications. It is not contentious for media organizations that Macedonia has to harmonize the Law on Broadcasting Activity with the EU AVMS Directive, however the impression is that the Government proposal shall be turned into law, with or without the support of the media community, and according to the announcements, in a period of 4 months, which is a short period to bring a high quality legislative solution. The broader media community, however, is divided regarding the question whether a Media Law should be adopted or not. For an example - on the other side of efforts for press to remain unregulated, questions are raised how to solve the illegal concentration in the field of the press, distribution and sales of free-of-charge editions, registration of printed editions, downloading texts from the Internet containing hate speech, etc.

Otherwise, regarding the regulation in the field of printed media in Macedonia there is an absurd situation. Contrary to the wide-spread opinion throughout the last twenty years that the press is not regulated, media experts discovered one shortcoming of the institutions. Namely, the Law on Principles of the Public Information System, dating from the year of 1990 from the previous social and political system (Official Paper of SFRY No. 84/90), is still partially in force. This Law encompasses all public information media, the press and the programmes of radio, television and journalistic agencies. Only those parts relating to performing the broadcasting activity under this Law ceased being valid after the adoption of the Law on Broadcasting Activity in 1997 (Article 94, paragraph 4, Official Gazette 20/97), but other provisions, among others those regulating the press, are still in force.



B. REGULATORY SYSTEM FOR BROADCASTING

1.6 Independence of the regulatory system is guaranteed by law and respected in practice

Indicators:

- Explicit legal guarantees of autonomy and independence from partisan or commercial interference
 - Legal guarantees of the independence of the regulatory body
 - Powers and responsibilities of the regulator clearly set out in law
 - Members of the regulatory body chosen through a transparent and democratic process designed to minimise the risk of partisan or commercial interference (for instance, setting up rules on incompatibility and eligibility)
 - Adequate and consistent funding for the regulator is guaranteed by law to safeguard its independence and/or protect it from coercive budgetary pressures
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-

Broadcasting was the first area where an independent regulatory authority was established in the country and the Macedonian broadcasting regulator was one of the first in the region. The first Law on Broadcasting Activity adopted in 1997 laid down the legal basis for regulatory intervention in the broadcasting field, although not giving fully the key competences to the new regulator.³² The Broadcasting Council itself, during the first two years of the implementation of the Law, faced its own limitations and inefficiency, which, even then, resulted in a call for changing the regulation.

The new Law on Broadcasting Activity adopted in November 2005 was almost entirely aligned with the Television without Frontiers Directive and with the Council of Europe standards in the broadcasting field, more specifically with the Recommendation 2000 (23) which sets the standards for the position and competencies of the independent regulatory authorities in the broadcasting field. There were several key changes in the new Law that laid down legal conditions for achieving full decision making capacity of the newly appointed members of the regulatory authority: the Broadcasting Council decides on allocating, revoking or renewing broadcasting licensees, it has powers to adopt by-laws and to conduct supervision over the implementation of the Law, the by-laws and the specific requirements in the broadcasting license, it has powers to impose sanctions (although with some limitations), powers to handle complaints etc.³³ In addition, the Broadcasting Council is explicitly defined as “[...] an independent non-profit regulatory body, with public competences and authority in the field of broadcasting activity,” which has to “[...] ensure the freedom and pluralism of expression, existence of diverse, independent and autonomous media, economic and technological development of broadcasting activity, and protection of the interests of citizens in broadcasting.”³⁴

The independence of the regulatory authority was one of the most debated issues before the adoption of the new Law, especially the fact that the election of the members of the regulator has been in the

³² The main weaknesses of the Law on Broadcasting Activity from 1997 were related to the fact that there was no license regime and that the final decision on allocating, revoking or renewing “concessions” was adopted by the Government. The Broadcasting Council itself implemented the whole procedure and filed a proposal to the Government.

³³ Law on Broadcasting Activity, Article 37, paragraph 1 (Official Gazette, No. 100/2005)

³⁴ Law on Broadcasting Activity, Article 21 (Official Gazette, No. 100/2005)



past strongly influenced by the ruling political parties. Therefore, democratization of the appointment procedure was considered as one of the most important positive changes introduced with the new Law aimed at strengthening the independent position of the regulator. Namely, the so-called 'authorized nominators' submit their proposals to the Parliament, which appoints the members of the regulator without having possibility to reject the proposal or to nominate other candidates. As authorized nominators of members to the Broadcasting Council, the Law from 2005 foresees: the Macedonian Academy of Sciences and Arts, the Inter-University Conference, the Majority Journalists's Association of Macedonia and the Committee of Elections and Appointments of the Assembly of the Republic of Macedonia (Article 26).

However, as a general consideration, it can be said that the expectations that the new appointment procedure will make the regulator more independent in practice have not been completely fulfilled. It turned out that the political parties in power, through their different channels of influence, can still affect the decision of some of the authorized bodies to nominate the most 'appropriate' candidates. Professional expertise of the candidates, their qualifications and experience in the field, although explicitly required in the new Law, were not taken as the most important criteria in the nomination procedure. Also, the process for appointment has not been enough transparent and did not allow for public scrutiny as it is defined in the Law on Broadcasting Activity, that is to say, a public expert debate was missing on the expertise of candidates and their academic and creative experience. For example, the selection of the first composition of the Broadcasting Council, in the first half of 2006, was accompanied with some controversies especially related to the fact that two of the nominated candidates were very close to the leaders of the ruling parties at that time. Probably this was one of the reasons why the main opposition party VMRO-DPMNE (which won the Parliamentary elections in June/July 2006) considered the entire composition of the newly appointed regulator as very close to their political opponent SDSM. Even during its electoral campaign, the VMRO-DPMNE announced that they will change the legislation in both broadcasting and electronic communications, using some "technological and regulatory arguments" to justify their intention to merge the two regulatory authorities – the Broadcasting Council and the Agency for Electronic Communications. In March 2007 the Ministry of Transport and Communications drafted new Law on Broadcasting Activity and new Law on Electronic Communications. The real intention behind this initiative was to achieve political dominance over the work of two regulators which were considered as highly influenced by their political opponents. Following vivid public debate and the recommendations issued by the European Commission, after couple of months the Government withdrew the proposed laws. "Although the merger is likely to happen in the future, independent observers find it inappropriate because the two institutions were just established and have not yet had time to mature".³⁵ However, the tensions between the Broadcasting Council on one hand and the Ministry of Transport and Communication and Government on the other, continued during the course of 2007, resulting in lack of cooperation and refusal of the Strategy for Development of the Broadcasting Activity adopted by the Broadcasting Council, by the Government, that is, by the Ministry of Transport and Communications.

In the course of 2008 and 2009 the pressures from the Government and from the Ministry of Transport and Communications over the work of the regulator calmed down, especially having in mind the fact that in December 2008 the Government allocated 600.000€ to the Broadcasting Council for

³⁵ Sopar, Vesna (2008) Television across Europe - Follow-up Reports 2008, Macedonia. Bucharest: OSI. Pg. 29. Available on: http://www.soros.org/initiatives/media/articles_publications/publications/television_20090313/macedonia_20080429.pdf



monitoring the media coverage of the upcoming elections. It must be emphasized that this allocation of funds from the state Budget to the independent regulator coincided with the fact that in 2008 the Government was the second biggest advertiser in the commercial television sector. Namely, in 2008 the national TV stations aired more than 185 hours or 6.422 TV spots of public campaigns paid by the Government.³⁶ Therefore, different media experts³⁷ emphasized at several occasions that this can lead to political interference into the editorial policy of the commercial media. The editors in chief of several daily newspapers reacted in public that „the Government’s public campaigns broadcasted only in some media stimulate unfair competition and put the representatives of the seventh force in unequal position [...] the Government wants to put the media under its control, and punishes those who are disobedient by not publishing there its campaigns.“³⁸ The European Commission itself stressed that “public expenditure on State advertising is a significant source of revenue for some broadcasters, but is not sufficiently transparent and therefore has the potential to undermine editorial independence.”³⁹ Only the Broadcasting Council reacted ambiguously to the new phenomenon of state advertising stating that “[...] it debated several times on this issue but there is no law that can prevent the Government from self-advertising in the media.”⁴⁰ In the same press release, the President of the Broadcasting Council stated also that “[...] it is a matter of taste whether, how and to what extent the Government will misuse the media space. In any case, such a bombarding of advertisements is detrimental for the broadcasters themselves, which destroy their own programming with so boring and lengthy ads.”⁴¹

The newest attempt for exercising pressure over the work of the broadcast regulator is Government’ proposal of the amendments to the Law on Broadcasting Activity adopted by the Parliament on July 18 2011, which increased only the number of the members of the Broadcasting Council from 9 to 15. The justification behind was that these changes will make the work of the regulator of higher quality, more efficient and more transparent. The Association of journalists, the Macedonian Institute for Media and the Independent Union of Journalists and Media Workers, as well as media experts, reacted publicly that increasing the number of the members will not bring any quality in the broadcasting, but shows only that the Government has intention to impose control over the Broadcasting Council.⁴² The new members were appointed on the proposal of new authorized nominators: the President of the state, the Association of the Units of Local Self-government of the Republic of Macedonia, the Commission for Protection of Competition and the State Commission for Prevention of Corruption. Except the fact that at least two of the appointed members are close to the ruling parties, the main remarks were that giving the right to these institutions to nominate members to the Broadcasting Council, would mean partization of this regulatory body. Otherwise, a principal remark is that these bodies do not have the institutional grounds to nominate members to the Broadcasting Council, since they are regulators

36 The Government has never publicly declared the exact amount of funds allocated to commercial broadcasters, even though there were many public discussions in this regard. According to some estimates, the net amount of the funds paid to TV stations for broadcasting public campaign advertising was approximately 17 million Euros (net amount).

37 Website of the NGO Transparency Macedonia, <http://www.transparentnost.mk.org.mk/?p=1305> and „Државни пари за приватни реклами“ (State money for private commercials), *Dnevnik*, 2 February 2008. Available on: <http://www.dnevnik.com.mk/?itemID=F953A63D860BF64A9D45D2FBC85A099C&arc=1>

38 „Влагиније кампањи - притисок врз медиумите“ (Government campaigns - pressure over the media), *Utrinski Vesnik*, 9 January 2008. Available on: <http://www.utrinski.com.mk/default.asp?itemID=40D51152CD71BA4DBEEFF5EC5D8A7133>

39 European Commission. Progress Report on Macedonia for 2009. Available on: http://ec.europa.eu/enlargement/pdf/key_documents/2009/mk_rapport_2009_en.pdf

40 „Влагата подготвува нови реклами“ (The Government prepares new commercials), *Utrinski vesnik*, 17 December 2008. Available on: <http://www.utrinski.com.mk/?itemID=6AE6F58FD5F2D4488670A445F016EC3D>

41 Ibid

42 Statement for media of AJM, MIM and SSNM, 18 July 2011. Available on: http://mim.org.mk/index.php?option=com_content&view=article&id=341%3A2011-07-18-12-36-46&catid=39%3A2008-12-01-12-31-11&lang=mk



themselves. In this way we would come to an absurd situation - regulatory bodies nominating members to each other.

Today, one can arguably say that although the current Law on Broadcasting Activity provided the necessary legal basis for independent, transparent and non-discriminatory regulatory processes, there is still a lack of competence and a high level of exposure to political and other interference in the work of the regulatory body. This reflects the entire situation of the broadcasting, but also the other media sectors in the country. In this context, in the 2011 Progress Report the European Commission stresses that: „Amendments to the Law on the Broadcasting Council have increased the number of appointees from bodies controlled by the government. The amendments were adopted without consulting the Broadcasting Council or any public debate. The amendments raise concerns about weakening of the independence of the body and increasing bureaucratisation.“

1.7 Regulatory system works to ensure media pluralism and freedom of expression and information

Indicators:

- Regulatory body formally accountable to the public
 - Regulator has scope to ensure that the broadcasting sector runs in a fair, pluralistic and efficient manner and is empowered by law to promote fairness, freedom of expression, of views and ownership, public service programming and accessibility of broadcasting services to the general public
-

The Broadcasting Council is explicitly defined as an independent non-profit regulatory body, whose main mission is to “ensure the freedom and pluralism of expression, existence of diverse, independent and autonomous media, economic and technological development of broadcasting activity, and protection of the interests of citizens in broadcasting.”⁴³ The work of the Broadcasting Council is public. It works and decides in meetings open to the public and it is obliged to publish the public competitions, the decisions and minutes of its meetings, and all the other documents. It is also obliged to organize public meetings with all the stakeholders, at least once every three months to enable them to be informed about its work and to provide them with an opportunity to present their views and opinion on the situation in the field of broadcasting.⁴⁴

Compared to the previous Law from 1997, the new Law on Broadcasting Activity gave full regulatory powers to the Broadcasting Council as set down in the Recommendation 2000 (23) of the Council of Europe. These powers range from general policy setting powers (drafts Strategy for Development of the Broadcasting Activity, gives opinions or participates in drafting legislation), to policy implementing powers (adopts specific regulations, allocates licenses) as well as powers to make decisions related to broadcasters (monitoring and sanctions). The new Law gives the Broadcasting Council full monitoring powers (Article 37). It is explicitly authorized to implement the legal provisions related to the programming requirements as well as to the conditions laid down in the licenses awarded to them. It can also impose sanctions ranging from first written warning, second written warning with a demand for the warning to be

⁴³ Law on Broadcasting Activity, Article 21 (Official Gazzete No. 100/2005)

⁴⁴ Law on Broadcasting Activity, Article 33 (Official Gazzete No. 100/2005)



aired, temporary prohibition to broadcast advertising and teleshopping for a period from 1 to 7 days and temporary prohibition to broadcast the programme service for a period of up to three months.

After the adoption of the new Broadcasting Law, in the course of 2006 and 2007, all the efforts of the Broadcasting Council were focused on the efficient implementation of the Law and adoption of the Strategy for Development of the Broadcasting Activity. The Strategy for Development of the Broadcasting Activity is a comprehensive document that determines the strategic goals in four areas: further development of pluralism and diversity, strengthening the media industry, technological development and digitisation of terrestrial television and further development of legislation. It is important to emphasize that the Strategy was the first document that elaborated the need for harmonization of the national legislation with the new Audiovisual Media Services Directive. In January 2008, the Broadcasting Council also adopted an Action plan for implementation of the Strategy. One of the key issues emphasized in the Strategy was the devastating situation on the broadcasting market: the commercial broadcasters were not viable and facing exceptionally great difficulties due to the underdeveloped economic environment, small influx of funds from commercials, large number of entities on the market and unfair competition among broadcasters. Therefore, the Broadcasting Council stated that it is necessary to rationalize the market, i.e. to reduce the number of entities, which is crucial for efficient implementation of legislation, especially in terms of copyrights, financial management and unfair competition.

However, the implementation of the regulatory policy in the broadcasting field since 2008 onwards shows that the regulator has not observed the long-term goals determined in the document it drafted itself - 2007-2012 Strategy for Development of the Broadcasting Activity. Instead of rationalizing the market and preparing the field for digitisation, the Broadcasting Council awarded in 2008 a large number of analogue broadcast licenses, which additionally disrupted market conditions. The consequences of steps taken by the regulator may be summarized with the following items:

- The market, having 163 broadcasters operating (a total of 157 commercial broadcasters), is still oversaturated;
- Most of the influential TV stations are still in the hands of influential owners using them for promotion of their business and political interests;
- Advertising costs in the television sector increased as a result of awarding a large number of new broadcast licenses on a national level via satellite in 2008 (total of 17). As a consequence, revenues in the radio and in the press fell dramatically;
- The digitisation in the terrestrial television broadcasting is late. The tender procedure for allocating three multiplexes on national level was conducted under circumstances of non-existence of appropriate legislation. The public interest is endangered since the main operator principally re-broadcasts foreign channels, instead of protecting cultural diversity in the society.
- There was no moratorium on awarding licenses to broadcast on analogue frequencies, whereas digitisation is not carried out according to the strategic plan of the Council.

C. DEFAMATION LAWS AND OTHER LEGAL RESTRICTIONS ON JOURNALISTS

1.8 The state does not place unwarranted legal restrictions on the media

Indicators:

- No legal provisions dictating who may practice journalism or requiring the licensing or registration of journalists
 - Fair and transparently implemented accreditation procedures for coverage of official functions and bodies
 - Insult and defamation treated in the legal system as a civil and not a criminal matter
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In Macedonia there are no legal norms regulating the performance of the profession of a journalist, that is, neither journalist licenses are issued, nor is any registration of journalists carried out. Still, according to the Law on Determining Additional Conditions for the Performance of Public Function (Article 17, paragraph 2), all the founders and employed journalists, editors in a commercial broadcasting company and non-profit broadcasting institution who have a license to perform a broadcasting activity, as well as founders and employees in companies in the field of press, should submit a written statement to the Facts Verification Commission whether they had collaborated with the secret services during the former socialist system.

Journalists may join the Association of Journalists on a voluntary basis.

However, in Macedonia there is the journalists accreditation system, by which journalists obtain privileged access to certain venues and events on the basis of their duty to inform the public, thus accreditations exist as a system in Macedonia. For instance, so that the journalist is able to report from the Parliament, the Government or from sports events, he/she has to obtain accreditation by the respective institutions or bodies. There is no special body which issues journalist accreditations in Macedonia. Generally, state institutions do not select journalists, even though there is a case noticed in the practice when AJM reacted because of "selection."

A special license is not required so as to found a printed medium. For broadcasters/ electronic media, a working license is required, which is awarded by the Broadcasting Council.

Defamation and insult are regulated by the Criminal Code; however, unless the court determines a fine on the basis of the Criminal Code, the parties may also file a lawsuit in civil procedure on the grounds of a request for compensation for an intangible damage.



1.9 Defamation laws impose the narrowest restrictions necessary to protect the reputation of individuals

Indicators:

- Defamation laws do not inhibit public debate about the conduct of officials or official entities
 - Defamation laws provide for sufficient legal defences e.g. that the disputed statement was an opinion, not an allegation of fact; that publication or broadcasting of the disputed fact was reasonable or in the public interest, or that it occurred during a live transmission and/or before a court or elected body
 - Defamation laws provide for a regime of remedies that allow for proportionate responses to the publication or broadcasting of defamatory statements
 - The scope of defamation laws is defined as narrowly as possible, including as to who may sue
 - Defamation suits cannot be brought by public bodies whether legislative, executive or judicial
 - The burden of proof falls upon the plaintiff in cases involving the conduct of public officials and other matters of public interest
 - There is a reasonable cut-off date after which plaintiffs can no longer sue for an alleged defamation
-

The legal framework on freedom of expression and freedom of media fulfils most of the international standards, which has been the conclusion of several reports of the European Commission, even though they include remarks about the practice. In 2006, following the amendments to the Criminal Code, the imprisonment as a punishment for the crimes defamation and insult was partially abolished. More precisely, although Article 172, relating to the penal offence of defamation, in paragraph 1 foresees that “a person who expresses or spreads some untruth about another, which is harmful for his honor and reputation, shall be punished with a fine”, the second paragraph under the same Article also envisages a prison sentence if “the untruth that is expressed or spread is of such significance that it caused severe consequences for the life and health of the damaged or a person close to him/her.” This means that the offender of such an act may be punished with imprisonment of three months to three years. In addition, Article 173, relating to the penal offence of insult, in paragraph 1 foresees that “a person who insults another shall be punished with a fine”, but in paragraph 2 it is stated that “the person who exposes another person to mockery through an information system, because of his or hers membership in a group of a different race, skin colour, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year”.

Over the twenty years of existence of independent Macedonia, one imprisonment sentence has been passed and one probation⁴⁵ (Law on Amendments to the Criminal Code, Official Gazette No. 60/2006). At the time when the prison sentence existed as a punishment for defamation and insult in the Law, the opportunities to obstruct freedom of expression and public debate were greater. Therefore it may be said that the fact that there used to be a prison sentence, influenced the freedom of expression of journalists to a larger extent.

⁴⁵ Probation means that if the imprisonment sentence is, for instance, *three months, and conditionally two years*, the person/journalist will not serve the three months imprisonment, unless he/she commits another criminal act in the next two years



The provisions of the Criminal Code do not envisage a sanction for slander if the defendant proves the truth of his/her statement, or if he/she proves that he/she had a founded reason to believe in the truthfulness of what he/she had stated or spread (Article 172 of the Criminal Code, consolidated text, Official Gazette No. 19/2004). This means that, according to the Law, the person (journalist) shall not be held guilty if he/she proves the truthfulness of his/her statement or if he/she proves that he/she believes that it is so, thus he/she had a legitimate goal, for instance, prevention of corruption, etc. Thereby, the Law does not precisely draw a distinction between facts, which are proven in a procedure, and value estimates, which as personal estimates of an event are not subject to being proven⁴⁶ (according to the law of the European Court of Human Rights in Strasbourg⁴⁷). In 2009, with the amendments to the Criminal Code it is envisaged not to impose punishment for defamation for the journalist who reports of something publicly announced by another person (Law on Amendments and Modifications to the Criminal Code, Official Gazette No. 114/2009). Thus, according to the Law, the person/ journalist is not liable if he/she reports of something which has been publicly announced by another person who had stated untruth.

Prosecution for crime offences against reputation and honor or for defamation and insult is undertaken by a private lawsuit. This means that if an official holding the function president of state, president of parliament, prime minister, etc. believes to have been slandered or insulted by a journalist, he/she should file a private lawsuit against the offender (journalist), but the public prosecutor cannot prosecute the offender (journalist) ex officio. Until 2004 there was also an opportunity for criminal charges to be brought against journalists ex officio by the public prosecutor.

If a defamation or insult lawsuit is initiated, the burden of proof falls on both parties. More precisely, the defendant leads/ conducts the evidence procedure so as to prove that he/she is right, that is to say not guilty, whereas the plaintiff to prove that the defendant is not right.

In accordance with the Criminal Code, criminal prosecution may not be undertaken when two, i.e. three years expire from when a crime was committed, in this precise case defamation or insult (Article 107, paragraph 1, items 5 and 6 of the Criminal Code). If two or three years after the publication of a text or contribution no criminal charges are filed, the crime becomes dated and the person may not be prosecuted after that period of time. Furthermore, criminal prosecution may not be undertaken when three years expire from when a crime was committed or when untruth was expressed or spread that caused severe consequences for the life and health of the damaged or a person close to him/her. Criminal prosecution may also not be undertaken when two years expire after someone publicly exposes another person to mockery through an information system,⁴⁸ because of his or hers membership in a group of a different race, skin colour, nationality or ethnic origin, or after he/she exposes to mockery the entire group of people who have such characteristics.

The Macedonia 2011 Progress Report prepared by the European Commission once again emphasizes the fact that the defamation has not been decriminalized, as well as that fines can be expressed in unlimited amounts. Journalists themselves are responsible for their work and that is why they are exposed to the danger of being punished with very high fines, thus, in this context, the European Com-

46 More in Janis, M. and Kay, R. (2000) European Human Rights Law. Oxford: Clarendon Press

47 A reason is the supranationality of the Law of the Council of Europe or the direct application of the Law in the organisation's member countries

48 The term information system is most appropriately to be understood as signifying social networks, such as *Facebook* for instance, taking into consideration that they have the nature of public information systems



mission expresses concern for the intimidation of journalists and the increasing self-censorship.⁴⁹

One of the key remarks of the media community regarding defamation and insult is that until now Macedonian courts, when reaching verdicts, have rarely applied, or referred to the practice of the European Court of Human Rights in Strasbourg concerning defamation and insult verdicts, which are directly applicable in the Council of Europe member states. This was also stressed during the “Mavrovo meeting” on improving the media environment in Macedonia, as well as during the expert discussion organized with regards to the development of the media landscape in Macedonia according to UNESCO indicators. Over both of these events, the request of the media community was emphasized for decriminalization of the acts of defamation and insult, i.e. transferring these two crime offences under civil law, even though there were opinions against changing the legislation, but only putting an emphasis on the application of the practice of the European Court of Human Rights. However, legal experts working in the media landscape advise that even in that case a mechanism should be sought after for limiting the compensation for intangible damage in civil procedure. In the course of the expert discussion, the participants proposed for an initiative to be lodged to the Supreme Court so that it conducts an analysis of cases with sentenced punishments for defamation and insult, but also to determine a framework of the compensation for intangible damage in civil procedures. In addition, it was recommended that in court proceedings all legal remedies of the domestic legislation should be drawn, that is to say, with regards to the protection of human rights and freedoms, procedures to be filed to the Supreme Court, which is also a recommendation of the Court in Strasbourg.

In the course of December 2011, at the conference organized by the Association of Journalists of Macedonia on decriminalization, the Minister of Justice pointed out that representatives of AJM would be included in the working group which shall debate the possible amendments to the Criminal Code, among other things on the part of defamation as well. During the same period, the Academy of Judges and Public Prosecutors held a two-days conference “Public Relations, Media and Judiciary” on the correct application of Article 10 of the European Convention for Human Rights where international experts underlined that when it comes to cases where journalists criticize holders of public offices, i.e. politicians, the European Court of Human Rights is very clear - they should not be privileged, but they have to be aware that they shall always be a subject of observation and criticism. Experts emphasized that despite this many politicians are trying to provoke criticism with their discussions, and afterwards they try to defend themselves from journalists by bringing criminal charges against them. Within the conference of the Academy of Judges and Public Prosecutors it was announced that trainings shall be organized for judges for correct application of Article 10 of the Convention.⁵⁰

49 European Commission. Progress report on Macedonia for 2011. Available on: <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControllID=IzvestaiEU.ascx>

50 „Политичарите не треба да бидат привилежирани со тужбиите“ (Politicians should not be privileged by lawsuits), *Utrinski Vesnik*, December 2012. Available on: <http://utrinski.com.mk/?ItemID=4578FAC9CF69CC41B3ED2AF1C2AD871A>



1.10 Other restrictions upon freedom of expression, whether based on national security, hate speech, privacy, contempt of court laws and obscenity should be clear and narrowly defined in law and justifiable as necessary in a democratic society, in accordance with international law

Indicators:

- National security and other restrictive laws do not inhibit public debate about issues of public concern
 - Any restrictions are narrowly defined in law, rather than be subject to executive discretion
 - Such laws should be subject to a public interest override where appropriate
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Macedonia is a signatory to the European Convention for the Protection of Human Rights and Fundamental Freedoms, by which this document is directly applicable in the country. Namely, in accordance with Article 118 of the Constitution, the international agreements ratified in accordance with the Constitution are part of the internal legal order and cannot be changed by law. Hereafter, in Macedonia, Article 10 of the European Convention is directly applicable, which guarantees freedom of expression in the first paragraph, whereas in the second it envisages restrictions which are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Restrictions on human rights and freedoms in general, among which on freedom of expression as well, are prescribed by the Constitution, as by other laws, which directly or indirectly, regulate certain fields. In line with the Constitution, the freedoms and rights of the individual can be restricted during states of war or emergency, and the restriction of freedoms and rights cannot discriminate on grounds of sex, race, colour of skin, language, religion, national or social origin, property or social status (Article 54).

The Criminal Code envisages under several articles punishment for the instigation of violent change to the constitutional system (Article 318), hate speech (Article 319, 417), as well as punishment against a person who by means of information system will publicly negate, roughly minimize, approve or justify a genocide, crimes against humanity or military crimes (Article 407-a). The Law additionally prescribes restrictions against "the person who exposes another person to mockery through an information system, because of his or hers membership in a group of a different race, skin colour, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year" (amendments to the Criminal Code from 2009, Article 173).

The Criminal Code prescribes a fine for those who express or spread something from the personal or family life of some person which is harmful for the reputation of that person (Article 174 of the CC). Until 2006 there was a fine or imprisonment of up to one year for release of privacy details if it was conducted through the press, radio, television, electronic mail or other public information media or at a public gathering. This provision was repealed with the amendments to the Criminal Code in 2006.



With a view to protecting national security, however, there are restrictions on the freedom of expression or access to information in other laws as well, as for instance in the Law on Internal Affairs, Law on Classified Data, etc. It is a question of restrictions when it comes to information characterized as state secret, confidential or internal.

The legal norms on restrictions on freedom of expression mainly do not obstruct the public debate, but the reasons are mainly of political nature, as concluded in the Reports of the European Commission.

Regarding ongoing procedures before the courts for the crimes defamation and insult, the Coalition "All for Fair Trials" in October 2011 published the analysis "Monitoring the court cases against journalists accused of defamation and insult", which comprises an analysis of 77 cases against 120 individuals (journalist, editor-in-chief or other persons - freelancer, presenter, manager, legal entity) in the period between 2010 and 2011. This organization identified 166 cases, however, only a part of these, 77, were subject to monitoring. In 2011, there were 10 cases of defamation and insult before the Basic Court Skopje 1, for which the procedure had been initiated in 2007, 12 cases with the procedure being filed in 2008, 30 cases date from 2009, and in 2010, criminal procedure was filed in 96 cases even. 1 criminal procedure has been lodged on the grounds of defamation and insult before the Basic Court Bitola, 4 cases before the Tetovo Basic Court, and there has been 1 procedure against a journalist in the Kumanovo Court. Most of the 77 monitored cases, 83%, were formed against journalists for defamation (64 cases), and insult appears in only 2 cases, whereas 14% of the cases are related both to defamation and insult. According to the research, public officials appeared in the role of a plaintiff in all the monitored cases. The publication states that "what causes concern [...] is the issue of the time from filing a private lawsuit until the scheduling of the first hearing." This time on average amounted to 145 days, but still such cases could be found in which the waiting time exceeded 300 days. "Frequent postponement of hearings is an important factor influencing the delay of the proceedings and opens the question of respect for consistent fair trial standards within a reasonable time."⁵¹

Otherwise, one of the most famous defamation cases in Macedonia dates from the year of 2006, when the owner of the *Fokus* weekly periodical was sentenced with a fine in the amount of 30.000 Euro, because of a text where he stated that the President of State at that time, Branko Crvenkovski, owned secret accounts in Swiss banks. The latest case from October 2011, when the editor-in-chief of the same weekly periodical was found guilty in a case filed against her by the former Minister of Foreign Affairs, involved a very high fine in the amount of 15.000 Euro.

51 Kiprijanovska, Dragana (2011) Nabljuduvanje na sudskite slucaj vo koi novinari se obvineti za kleveta I navreda (Monitoring the court cases against journalists accused of defamation and insult). Skopje: Coalition „All for Fair Trials“

D. CENSORSHIP

1.11. The media is not subject to prior censorship as a matter of both law and practice

Indicators:

- Any regulation or official mechanism which permits or requires censorship of the media
 - Reports by credible agencies and the media about censorship of the media
 - Forced closures of newspapers, periodicals or broadcasters, number of books or publications banned
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Censorship in Macedonia is prohibited by the highest legal act (Article 16 of the Constitution of the Republic of Macedonia). However, it is debated in the public on issues relating to the influence of politics and capital on the media. However, this cannot be characterized as censorship, but it presents more of a part of the debate on independence and professionalism of the media. One such event from October 2011 opened doubts as to the possible censorship of contents. Namely, the weekly periodical *Publika*, issued as part of the daily newspaper *Dnevnik*, was printed, but not distributed, because of a text which would allegedly cause serious damage to *Dnevnik*, which is owned by a German company.⁵²

1.12 The state does not seek to block or filter Internet content deemed sensitive or detrimental

Indicators:

- Internet content is not blocked or filtered by the state because of its content or source
 - Internet users are not subject to sanctions for accessing or publishing content on the Internet deemed sensitive or detrimental
 - Documented cases of forced closures or threatened closures of websites
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Internet is an area on which there are no legal provisions in Macedonia, therefore no restrictions as well. The only regulation that refers to this area is the provision in the Criminal Code which prescribes punishment for hate speech through computer systems. Pursuant to this provision, the person who exposes another person to mockery through an information system, because of his or hers membership in a group of a different race, skin colour, nationality or ethnic origin, or will expose to mockery the entire group of people who have such characteristics, shall be punished with a fine or imprisonment of up to one year (amendments to the Criminal Code from 2009, Article 173).

Otherwise, there have been several cases of threats or closures of websites in the practice. First was the case of the online edition of the *Vreme* daily newspaper (ceased publishing, as one of the group-ation of media close to Velija Ramkovski), when in the comments part, Internet users threatened the main editor-in-chief of the newspaper. The case was reported to the police, after which the Internet user/commenter was discovered, but thereafter the newspaper closed its online readers' comment

⁵² „Приложојот 'Публика' во Дневник повлечен поради штејшен текст” (The supplement 'Publika' in Dnevnik withdrawn due to a harmful text), Plusinfo, online newspaper. Available on: <http://www.plusinfo.mk/vest/19085/Prilogot-Publika-vo-Dnevnik-povlechen-poradi-shteten-tekst>



sites and erased all the comment archives. Another case is what happened at the beginning of 2011, when the Ministry of Interior called on all the *Facebook* users to restrain from publishing contents with explicit hate speech relating to the case of construction of a church-museum at the Kale Fortress in the capital Skopje. On the other hand, the construction of an object at the Kale Fortress was a case which instigated considerable tension, as well as a big fight on interethnic basis, after which there were various groups formed on the Internet social networks “for” and “against” the construction of a church-museum at the Kale Fortress, using hate speech, as well as insults on ethnic and religious grounds. Afterwards, the Ministry of Interior requested from the *Facebook* administrators to block such groups.⁵³

⁵³ „Полициска ојсага за мир на калеџо“ (*Police siege for peace on the Kale fortress*), *Nova Makedonija*, 21 February 2011. Available on: <http://www.novamakedonija.com.mk/NewsDetal.asp?vest=22111830495&id=9&setIzdanie=22212>



RECOMMENDATIONS:

1) Harmonization of the present national broadcasting legislation and by-law regulations (statutes, rulebooks, etc.) with the new Audiovisual Media Services Directive of the European Union. In this process of harmonization with the *Acquis Communautaire*, to encompass both legislation and by-law regulations in telecommunications, especially in the part where regulatory bodies (BC and AEC) have separate or common competences, as well as in protection of copyrights and other related rights and intellectual property rights.

2) Re-examination of the current legal provisions of the Law on Free Access to Public Information in terms of reply time for institutions, i.e. shortening the time when information requesters are journalists and the media.

3) Sharpening the penal policy towards institutions not replying to the requests of citizens, journalists and media, in accordance with the Law on Free Access to Public Information.

4) Re-examination of the provisions of the Law on Broadcasting Activity altering the selection model of members of the Broadcasting Council, regarding the number of members of the regulatory body and the inclusion of new authorized nominators, who have no authentic base and structure, and as regulators they are themselves subject to a nomination procedure prior to the selection in the Parliament of Macedonia.

5) Opening a debate on *de jure* and *de facto* independence of the regulatory body in the broadcasting field, as well as on the goals and effects of the Strategy for Development of the Broadcasting Activity and regulation policies on television and radio, as the most significant segment of the media sector in Macedonia over the past years.

6) Conducting a comprehensive legal and media content analysis of defamation and insult court proceedings up to now against journalists before Macedonian courts, in terms of the case law of the European Court of Human Rights, the recommendations of the Council of Europe and of Article 19.

7) Decriminalization of the acts defamation and insult or implementation of solutions and instruments, both in criminal and civil law, which will guarantee wide enough framework for freedom of expression, for investigative and critical journalism. The Supreme Court, as the highest judicial authority, and the lower instance' courts, within their competences should determine guidelines which judges and courts will follow in proceedings of both primary and secondary instance (standards and criteria for determining the amount of compensation for intangible damage related to the acts defamation and insult in the area of civil legal procedure, which corresponds to actual Macedonian conditions and the material status of journalists and the media).

8) Initiating amendments to procedural laws, thereby instructing the court to assist the journalist in providing evidence from institutions, with the purpose to comprehensively and efficiently prepare his/her defense.

9) The Ministry of Justice and the Academy for Training of Judges and Public Prosecutors should provide institutional and financial resources and forms for continuous organization of trainings for judges so that the domestic judiciary apply the verdicts of the European Court of Human Rights. In this process of education, journalists, editors-in-chief and media owners should be included.



II. PLURALITY AND DIVERSITY OF MEDIA, A LEVEL ECONOMIC PLAYING FIELD AND TRANSPARENCY OF OWNERSHIP

A. MEDIA CONCENTRATION

2.1 State takes positive measures to promote pluralist media

Indicators:

- Effective regulations to prevent undue ownership concentration and promote plurality
 - Specific legislation on cross-ownership within broadcasting and between broadcasting and other media sectors to prevent market dominance
 - Regulations recognise the distinction between small and large players in the media market
 - Transparency and disclosure provisions for media companies with regard to ownership, investment and revenue sources
 - Licensing process for the allocation of specific frequencies to individual broadcasters promotes diversity of media ownership and programming content
 - Compliance with international standards
 - Authorities responsible for implementing antimonopoly laws have sufficient powers e.g. power to refuse license requests and to divest existing media operations where plurality is threatened or where unacceptable levels of ownership concentration are reached
 - Government actively monitors and evaluates the consequences of media concentration
-

The Law on Broadcasting Activity from the year of 2005 introduces more liberal provisions on media concentration compared to those in the previous law. The main explanation thereby was the fact that the previous restrictive regulations prevented circulation of capital and transfer of ownership, thus the media industry in the course of the adoption of the law committed itself firmly to liberalization. Even though the new provisions provide for restrictions on ownership and anti-concentration measures, on the whole they are still very liberal and enable enlargement of the media industry, which was actually the main goal during their adoption. The measures to control the ownership of broadcasters and to determine illegal media concentration are mentioned in Chapter III of the Law on Broadcasting Activity.

The Law allows *horizontal integration* of capital (entities on a single market), but foresees restrictions with regards to the share in the founding capital, as well as with regards to the number of broadcasters that a natural person or a legal entity may own. For instance, a natural person or a legal entity may hold additional four licenses - one on national level (not exceeding 50% of the capital), one on regional and two on local level, provided that the two areas do not share a common border (Image 1).

If, on the other hand, a person or entity holds a license to pursue broadcasting activity on regional level (Article 14, paragraph 3), may hold additional three licenses - one on regional and two on local level, provided that the two regions do not share a common border. A third form of horizontal integration (Article 14, paragraph 3) is when a legal entity or a natural person holds a license to pursue broadcasting activity on local level - can appear at the same time as an owner in at most two other broadcasters with licenses to pursue broadcasting activity on local level, provided that the two areas do not share a common border.

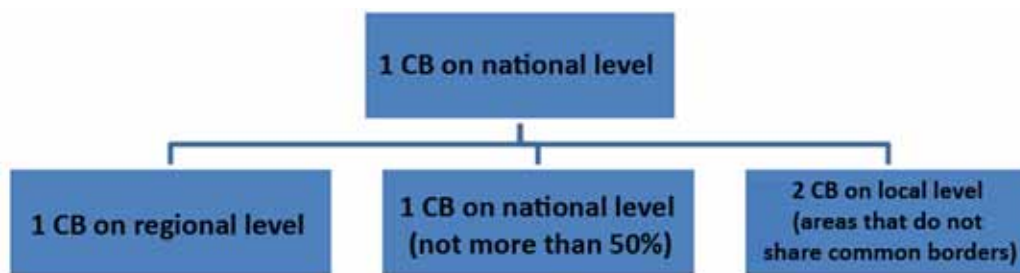


Image 1. Horizontal integration (Article 14 paragraph 1 and 2)

Vertical integration means share in the ownership, or integration of the capital of a broadcaster and companies of related activity. The Law determines related activities, i.e. the merger of these activities results in illegal media concentration: advertising and propaganda, film production, audiovisual works distribution and telecommunication services. Neither the broadcaster, nor its founder may own a share in the founding capital of companies registered for these activities.

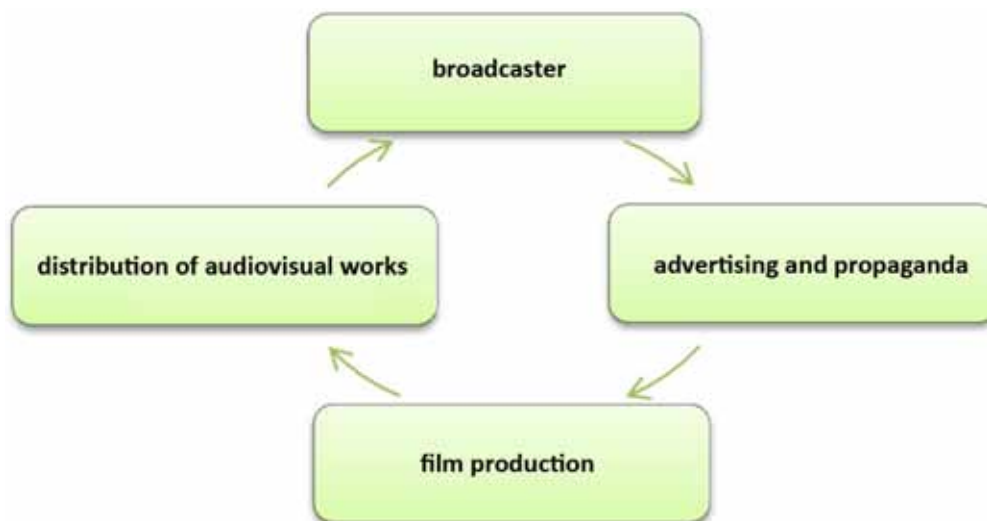


Image 2. Illegal vertical integration (Article 13 and 14)

Diagonal integration means share in the ownership, or integration of the capital between legal entities which do not belong to the same market, for instance, broadcasters transmitting television programme, radio stations and printed media. Regarding the connection of broadcasters (electronic media) with printed media, the restriction only refers to daily newspapers. Neither the broadcaster, nor its founder may participate in the ownership of a press company that publishes a daily newspaper.

The Law also determines other activities that are incompatible with pursuing broadcasting activity. Namely, in the sense of this Law, it is considered that illegal media concentration also exists when a broadcaster or a founder of a broadcaster owns a share in the founding capital of a market and public opinion research company, investigation and security company, as well as news agency.

So as to restrict too large an influence of one or group of related broadcasters on a single relevant market, Article 17 of the Law provides for so called share thresholds of broadcasters in the revenues from advertising, the share in the aggregate audience ratings as well as population coverage, above which the specific merger shall be considered an illegal media concentration. Specifically, illegal media concentration is considered to exist when broadcasters gain a dominant position in the following cases:



Image 3. Illegal integration with other activities (Article 13 and 14)

- when the merger of capital leads to having a dominant position on the advertising market, that is to say, when the total share of one or group of broadcasters in the total sales of advertising time exceeds 30%;
- when the merger of capital leads to having a dominant position in the creation of public opinion, more precisely when the share in the total audience ratings of one or group of broadcasters exceeds 40%;
- when regional and local broadcasters, merging together, succeed in covering, in terms of broadcasts, a maximum of 50% of the total population of the Republic of Macedonia.

The Broadcasting Council, over the past five years, monitored the illegal media concentration and reacted in several smaller cases to broadcasters where an illegal concentration had been observed. Several radio stations come into question, the owners, i.e. managers of which owned companies for advertising and propaganda, i.e. film production companies.⁵⁴ However, the public attention over the last couple of years was especially diverted towards the consequences that two larger cases of illegal media concentration had over the public opinion, the market and the competition: (1) between the national radio station Ros Metropolis and two regional radio stations in the area of Skopje (City Radio and Radio Club FM); and (2) the national TV station A1 and the daily newspapers *Vreme* and *Shpic*, and later also the Albanian language daily newspaper *Koha* (which after the separation of a team from the newspaper and the establishment of a new newspaper bearing the title *Koha*, changed its name in *****e re (Koha e re)*).

Due to a large number of complaints filed by broadcasters, as well as articles published in printed media on the issue that the owner of the Ros Metropolis radio station, apart from one regional radio station (City Radio) owned another radio station in the area of Skopje (Radio Club FM), during the first half of 2008 the Broadcasting Council undertook activities with the purpose of discovering whether those three entities appeared on the market jointly, that is to say, whether in their business operation they applied competition-disruptive practices. Same activities were undertaken in the case of the A1 television station. The problem with both cases was that there was no formal evidence of ownership connection, but there were still complaints arriving filed by broadcasters stating that the competition was being disrupted. Such complaints referred to a largest extent to the disruption of competition done by the A1 TV station and the daily newspapers *Vreme* and *Shpic*.

⁵⁴ Broadcasting Council (2008) "Analiza na pazarot na radiodifuzna dejnost za 2007" (Analysis of the market of broadcasting activity for 2007). Skopje: Broadcasting Council. Pg. 89; Broadcasting Council (2009) "Analiza na pazarot na radiodifuzna dejnost za 2008". Skopje: BC. pg. 90; and Broadcasting Council (2010) "Analiza na pazarot na radiodifuzna dejnost za 2009". Skopje: BC. Pg.120. Available on: http://www.srd.org.mk/index.php?option=com_content&view=article&id=93&Itemid=76&lang=mk

In the analyses of the market of broadcasting activity for 2004, 2005 and 2006, conducted by the Broadcasting Council, it is stated that “[...] frequent complaints filed by some of the national broadcasters refer to the practices of tied sales of advertising time - for television and a daily newspaper, in situations of illegal media concentration.” The Council, further on, concludes that “this issue should be examined quite carefully from the perspective of common action of the regulatory bodies - for broadcasting and for protection of the competition.”⁵⁵ The Strategy for Development of the Broadcasting Activity points out this issue as one of the greatest barriers for the development of the broadcasting market and, therefore, one of the main directions “with the purpose of providing market development and stimulation of the competition [...] it is necessary the Broadcasting Council and the other institutions [...] to employ strict and restrictive policy regarding complying with the legal obligations [...]”, as well as that it is necessary for “the Broadcasting Council and the Commission for Protection of Competition to elaborate areas and mechanisms for cooperation.”⁵⁶

Taking into consideration that the Broadcasting Council is not directly competent for protection of competition, so as to resolve these cases, it began common activities with the Commission for Protection of Competition, on the basis of the signed Memorandum of Cooperation between these two bodies. In January and February 2008, the Broadcasting Council conducted an analysis of broadcasted commercials on both groups of media and gathered data on the sales practices of advertising time. By means of the analysis it was concluded that there were indications of joint appearance on the market of both groups of media and that the sales of advertising time was done by the same marketing services, i.e. same agencies. The analysis was submitted to the Commission for Protection of Competition, which is competent to act in accordance with the Law on Protection of Competition. Of the two cases filed by the Broadcasting Council, the Commission carried out a procedure for the radio stations Ros Metropolis, City Radio and Club FM and in December 2009 it reached a decision saying that these radio stations had violated Article 7 paragraph 1 of the Law on Protection of Competition, since they had concluded contracts on joint advertising through common marketing agencies.⁵⁷

On the other hand, there are no findings whether the procedure against the A1 TV-related media is started by the regulator for protection of competition. There is no decision published on the website of this body, nor any other information related to this case. In the middle of 2011, the media of the groupation close to Ramkovski ceased operating as a result of the procedure being carried out against a large number of legal entities, suspected to have evaded paying taxes to the state.⁵⁸

Regarding transparency and the provisions valid for media companies, it should be said that in accordance with Article 20 of the Law on Broadcasting Activity, broadcasters are obliged, at least once a year, to report on their ownership structure and their financial operations for the previous year, with an aim to ensure transparency of ownership and sources of financing which is rather important taking into account the influence that media, and especially television, have over the creation of public opinion. Transparency of the ownership structure is also important when observing the media concentration, thus broadcasters are thereby obliged to notify the Broadcasting Council of all changes in ownership, and if the change in the ownership structure applies to over 10% of the equity, they are obliged to request approval from the Broadcasting Council. Furthermore, broadcasters are obliged to submit their

⁵⁵ Broadcasting Council “*Analysis of the market of broadcasting activity for 2004, 2005 and 2006*”. Available on: <http://www.srd.org.mk/images/stories/publikacii/analiza%202004%202005%20i%202006.pdf>

⁵⁶ Broadcasting Council (2007) *Strategy for Development of the Broadcasting Activity (2007-2012)*. Skopje: BC. Pg.53. Available on: http://www.srd.org.mk/images/stories/publikacii/strategija_za_razvoj_na_radiodifuznata_dejnost_2007_2012.pdf

⁵⁷ Decision No. 07-42/27 from 18 December 2009. Available on: <http://kzk.gov.mk/images/Vestiimages/822/%D0%9F%D0%A0%D0%95%D0%97%D0%95%D0%9C%D0%98.PDF>

⁵⁸ For more information on the case of TV A1 see part III.F.3.13.

financial reports for the previous year to the Broadcasting Council and to submit information on the revenue generated through advertising, teleshopping and sponsorship.

Taking into consideration the analysis of annual reports of the Broadcasting Council, it may be concluded that the largest part of broadcasters fulfil these obligations, which directs to the conclusion that transparency of ownership and sources of financing is not a problem in the broadcasting sphere in the Republic of Macedonia. The authorization to demand information on the financial operations of broadcasters enables the Broadcasting Council to conduct regular analyses of the broadcasting market, which are of utmost importance with regards to monitoring the development of the respective activity.

The process of awarding licenses to pursue broadcasting activity is one of the key mechanisms of regulatory bodies in broadcasting to reach media pluralism, diversity of media content and quality of programmes offered to the audience. Announcing the first competitions for awarding licenses to pursue broadcasting activity in the year of 1998, the Broadcasting Council at that time awarded over 120 licenses to pursue broadcasting activity for TV and radio stations. In fact, prior to the adoption of the Law on Broadcasting Activity and the publication of competitions in 1998, there were already round 300 illegal radio and TV stations existing on the air. Thereafter, by awarding licenses in 1998, the already established media pluralism was legalized, i.e. set into a legal framework. Since then up until now, the main problem in the media landscape of the Republic of Macedonia has been the fact that pluralism exists mainly in quantity, but not in quality. Over the last couple of years, a main issue in broadcasting was the large number of media, that is to say, too large market fragmentation. Under circumstances when the economy was not developed and there were little revenues from advertising, this created unhealthy competition on the market and really unfavourable conditions for those media wishing to invest in development and work providing high-quality.

In December 2006, after holding series of public workshops with all the stakeholders on determining the current situation in the broadcasting field and on future guidelines to be included in the Strategy, the Broadcasting Council itself published the following conclusions:

„[...] Commercial broadcasters are not able to operate and face extremely serious difficulties due to the underdeveloped economic environment, small influx of finances from advertising, large number of entities on the market, unfair competition between broadcasters [...] Therefore, it is necessary to rationalize the market, i.e. to reduce the number of entities, which is of crucial importance for efficient implementation of legislation, especially with regards to copyrights, financial management and unfair competition [...] Pluralism and media diversity has been reached, but only quantity-wise. Financial hardships in both sectors had an influence over the quality of programmes and contributed to a lack of new and high-quality domestic production [...] Ownership structure in the private sector negatively impacts the independence of editorial policy: owners of media who are among the largest businessmen or who are affiliated with political parties mainly using their media for promotion of their own business or for their own political promotion [...]”⁵⁹

In the sense of organizational structure, the two simplest types of organization of media companies are present in Macedonia at the moment: Limited Liability Company One Person - LLC One Person (“DOOEL”) and Limited Liability Company – LLC (“DOO”). However, there is no entry of foreign investment which would bring fresh capital, knowledge and innovations in the programme. In the media sector it is recommended to found more complex organizational forms of media entities, such as joint

⁵⁹ Statement for media of the Broadcasting Council delivered on 8 December 2006. The statement is not available on the website of the Broadcasting Council.

stock companies, thus disabling the influence of powerful individuals, but also instigating greater transparency in operations and creation of internal controlling mechanisms.

2.2 State ensures compliance with measures to promote pluralist media

Indicators:

- Anti-monopoly laws used by regulators to refuse license requests or force divestment of existing media operations in order to avoid excessive concentrations of media ownership
 - Civil society groups and citizens at large actively participate in the promotion and enforcement of measures to foster media pluralism
 - Regulators allocate digital licenses to a diverse range of commercial and non commercial operators
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Covered in part II.A.2.1.

B. A DIVERSE MIX OF PUBLIC, PRIVATE AND COMMUNITY MEDIA

2.3 State actively promotes a diverse mix of public, private and community media

Indicators:

- State does not discriminate between public, private and community media in the granting of access to information
 - Where broadcasting regulation covers digital broadcasting, public service stations are automatically granted licenses for digital broadcasting
 - State does not impose start-up fees or other restrictions on new print titles aside from standard business registration requirements
-
-

In 2007, the Broadcasting Council prepared a Strategy for Development of the Broadcasting Activity, which set the goals to be achieved in the broadcasting sphere and guidelines how to achieve the respective goals. Taking into consideration the specific situation in which the legalization of the plural media landscape happened in 1998 (elaborated under item I.B.1.7.), the Strategy concluded that: "In Macedonia there is a quantitative pluralism [...] However, the data from the monitoring carried out by the Broadcasting Council [...] and the results of researches conducted for the needs of this Strategy show a lack of diversity and quality of the programme offer."⁶⁰ Therefore, a first general goal of the Strategy regarding the programme offer was exactly greater diversity and quality.

The key guideline concerning further development of the broadcasting field was to stimulate specialized programme services during the process of digitisation.⁶¹ The request to develop specialized ser-

⁶⁰ Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Available on: http://www.srd.org.mk/images/stories/publikacii/strategija_za_razvoj_na_radiodifuznata_dejnost_2007_2012.pdf. Pg. 81

⁶¹ Ibid. Pg. 65.



vices especially referred to national TV stations, because four of the five had predominantly entertaining general format (for more on formats see item II.C.2.7). In the meantime, new licenses to pursue broadcasting activity were awarded to transmit programme via a satellite, which in fact through the public communication networks return to the Macedonian market. Twelve of these television stations transmit programme in 2011, and only two of them are specialized (one in news, the other in music). Six have mainly entertaining general format, i.e. the number of such national television stations has risen from four to ten.

On regional level, it was expected for the quality of television services to improve during the process of regionalization. Namely, there are 10 media on regional level and only in the capital Skopje, which is determined by the Law on Broadcasting Activity (Article 4) as a region, and the other regions were supposed to be determined by the Council, which was also supposed to publish a public tender notice, by means of which of the already existing local television stations - those with the highest quality offer would have been regionalized. The Council determined eight regions in 2010 and opened a license award competition for 20 regional television licenses, but all of this remained not realized. The initiative got a negative reception, foremost with national broadcasters,⁶² and then it was also undermined by the Council members themselves, because on the session when the regionalization decision was to be reached this did not happen, due to “[...] a lack of the necessary number of votes to reach a decision.”⁶³

Contrary to this, in the period following the adoption of the Strategy, most of the analogue licenses were awarded on local level - from 36 in 2007, their number reached 48 in 2011, and of them 36 have predominantly entertaining general format.

With radios, in 2007, more than a third or 26 of a total of 61 radio stations were music-talk of general format (with less than 10% of talk content daily and broadcasted various music genres - most often pop music). The Strategy recommends that regional radio stations should receive licenses mainly for formats that protect the informative function⁶⁴, but after the unsuccessful attempt to regionalize television, nothing new happens with radio stations on regional level. Over the last period of time licenses were awarded only to radio stations on local level, and most often music-talk radios of general format. Namely, in 2011, there were 77 commercial radio stations of which 32 were of this format.⁶⁵

The Public Service Broadcaster Macedonian Radio Television (MTV) is guaranteed by Law that its programmes shall be transmitted free-of-charge via digital multiplexes (Article 75 paragraph 10 and 11 of the Law on Electronic Communications), and PSB is also a must carry obligation for all the operators of public communication networks (Article 110 of the Law on Broadcasting Activity). The Strategy for Development of the Broadcasting Activity foresees for MTV:

„In order to be able to completely fulfil its functions, MTV needs at least one more television programme service, oriented, above all, towards sport and culture. The digitisation will create the conditions for this need to be effectuated, but it is also necessary for the Council of MRT to adopt programme on long-term technical-technological and programme development

62 In the broadcast „Регионализација зад затворени врати“ (Regionalization behind closed doors) on the national terrestrial radio station Kanal 77, the Council was accused that the regionalization was conducted behind closed doors and during the annual holidays. Available on: <http://daily.mk/Kanal-77/regionalizacija-zad-zatvoreni-vrati/345432>

63 Report on the operation of the Broadcasting Council of RM for the period from 1 January 2010 to 31 December 2010. Pg. 31. Available on: www.sobranie.mk/ext/exporteddocumentdownloadwindow.aspx?Id

64 Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC. Pg. 77-78. Available on: http://www.srd.org.mk/images/stories/publikacii/strategija_za_razvoj_na_radiodifuznata_dejnost_2007_2012.pdf.

65 See a list of registered radio stations. Available on: http://www.srd.org.mk/images/stories/19052011_tvstanci_-_web.xls

where the new specialised channels have to fulfil the mission and the functions of the public service.”⁶⁶

The number of MRT’s programme services is determined by the Law on Broadcasting Activity. It remains to be seen whether in the course of its approximation with the Audiovisual Media Services Directive (AVMS Directive) the Strategy’s recommendations will be implemented. In the meantime, the Comparative Analysis of Programmes carried out by the Broadcasting Council in 2010 shows that:

„Both on the First and on the Second TV programme of MRT entertaining contents prevail, there is a lack of polemically open, original informative programme, and as a result of the lack of consistent editorial policy, there is strong contrast in the treatment of social topics, whereas the educational programme has no distinctive and in essence - characteristic, scenaristic/ dramaturgic/ director’s engagement.”⁶⁷

2.4 Independent and transparent regulatory system

Indicators:

- Regulatory system ensures equitable access to the frequency spectrum to a plurality of media, including community broadcasters
 - Decision-making processes about the allocation of frequencies between public, private and community broadcasters are open and participatory
 - Decision-making processes about the allocation of frequencies between public, private and community broadcasters are overseen by a body that is free from political or commercial interference or control by any vested interest
-

The regulatory system allows equal access to frequencies for all media, including the community media. However, the license award procedure, for which the Broadcasting Council is competent, was not always transparent and there were cases when it was against the Law in the previous years. So, for instance, in 2008, there were several violations to the Law, the tender documentation and the rules set in the Rulebooks of the Broadcasting Council (See also the part II.C.2.8)

The National Plan on Allocation of Radio and TV Frequencies is, on the other hand, under the competence of the Agency for Electronic Communications. It has published the Plan on Application of Radio Frequency Bands and the Plan on Radio Frequency Allocation and Utilisation on its website.⁶⁸ Pursuant to the Law, the Agency for Electronic Communications is an independent regulatory body. Even though the operation of this body in the 2011 Progress Report of the European Commission is generally assessed as good, still the Report points out the fact that the process of appointment of a new director of the Agency was a cause for concern from possible politisation of this body (See also the part II.C.2.6).

⁶⁶ Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC. Pg. 63. Available on: http://www.srd.org.mk/images/stories/publikacii/strategija_zarazvoj_naradiodifuznata_dejnost_2007_2012.pdf.

⁶⁷ Broadcasting Council (2010) „Анализа на програмите на МРТ за 2010“ (Analysis of the programmes of MRT 2010). Available on: <http://www.srd.org.mk/images/stories/publikacii/analiza%20na%20programite%20na%20mrt.pdf>. Pg. 15

⁶⁸ Website of the Agency for Electronic Communications. Available on: http://www.aek.mk/index.php?option=com_content&view=article&id=143%3A2011-06-23-10-51-20&catid=49%3AArf-spektar&Itemid=103&lang=mk



2.5 State and CSOs actively promote development of community media

Indicators:

- Pricing structure for broadcasting licenses not prohibitive for community media
 - Specific quotas or targets for the reservation of parts of the radio-frequency spectrum to community broadcasters
 - Mechanisms such as public hearings for communities to give their mandate to a community broadcaster and to renew that mandate at regular intervals
 - A proportion of revenues raised from the sale of spectrum and cable and telecommunications licenses is reinvested in community media
 - Positive state measures to support community print and broadcast media e.g. preferential pricing, discounted tariffs
 - CSOs assist community print and broadcast media through e.g. capacity building, seed funding, emergency bridging finance, advocacy
-

The Law on Broadcasting Activity from 2005 legalised for the first time the existence of a third - non-profit sector in the broadcasting field. Educational, cultural and other institutions and citizens' associations and foundations may establish a non-profit broadcasting institution with the aim to provide for the needs and interests of specific target groups (Article 10). Licenses are awarded on a competition, whereby criteria are set according to the needs of the community for which the respective service is intended. These media cannot broadcast commercials, but are financed with donations and similar sources. The Law stipulates that such non-profit broadcasting institutions pay a lowest fee for the license (Article 60).

Until now the Council has awarded four such licenses - three intended for the student radio stations of the universities "Ss. Cyril and Methodius" in Skopje, "Goce Delchev" in Shtip and "St. Clement of Ohrid" in Bitola, and one for the Turkish ethnic community in Shtip.

It was expected that some of the local public radio stations which existed in Macedonia for decades, but were "abolished" with the Law on Broadcasting Activity from 2005 would transform in non-profit radio stations. They had the role of community media because they were informatively directed towards the audience in the cities broadcasting programme, and everywhere, where a significant part of the population belonged to some of the ethnic communities - there were programmes on their languages. Even though the Law offered several transformation opportunities for these entities - to become part of the system of MRT, to become non-profit broadcasting institutions or broadcasting companies, in 2006 the Council adopted a decision for all these radio stations to be transformed in commercial media, which did not prove to be the most appropriate solution because "[...] until December 2010, [the transformation] was successfully completed by only few radio stations, some did not even start it at all, and some even ceased airing programme."⁶⁹

In addition, it was considered that for having a non-profit radio station the ethnic communities would be especially interested, but until 2010 only one license was awarded to one non-profit radio station of a minority community - Radio Dost FM from Shtip, which aired programme in Turkish. But,

69 Group of authors (2010), „*Analysis of the Ethnic Communities Media in the Republic of Macedonia*.” Skopje: MIM and School of Journalism and Public Relations. Pg. 10. Available on: http://www.mim.org.mk/attachments/342_sostojba%20so%20mediumite%20na%20jazicite%20na%20zaednicite_v4g.pdf.

in September 2010, this radio returned its license, with the explanation that it could not survive due to lack of financial resources.

It appears that there is no ample support and interest within the civil sector for the significance and opportunities of community media. In the country there is a governmental Agency for Exercising the Community Rights which in its 2010 Operation Programme envisaged activities for improved provision of information to community members. Its 2010 Operation Report mentions a panel discussion as an activity on the topic "Media and communities - trends and challenges", which aim was "to locate the problems in the area of provision of information to communities, problems which pull through for years with no significant improvement"⁷⁰.

In fact, only the three non-profit student radio stations which have support from the universities within which they operate, function successfully. In 2012 a new strategy for development of the broadcasting activity should be developed. It is expected to comprise the experience of the non-profit sector.

C. LICENSING AND SPECTRUM ALLOCATION

2.6 State plan for spectrum allocation ensures optimal use for the public interest

Indicators:

- Regulatory authority has a plan for spectrum allocation that meets ITU rules and UNESCO recommendations on provisions for public service broadcasting
 - Plan is drawn up in consultation with CSOs and the media sector
 - Plan is published and widely disseminated
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The application and allocation of frequencies in Macedonia are determined with a Plan on Application of Radio Frequency Bands and a Plan on Radio Frequency Allocation and Utilisation.⁷¹ Their adoption and implementation is the competence of the Agency for Electronic Communications. They are prepared in accordance with the Macedonian legal framework and the standards and acts of the International Telecommunications Union (ITU), the European Conference of Postal and Telecommunications Administrations (CEPT) and the European Telecommunications Standards Institute (ETSI).⁷²

The functioning of the Public Service Broadcaster in Macedonia is regulated by the Law on Broadcasting Activity, by which its license is awarded. It stipulates its bodies, financing, programme services, and it also sets the obligation for PSB to be treated as a must carry obligation for all operators of public communication networks. The technical resources (analogue and digital) for free-of-charge transmission of its programmes on the territory of the whole country are regulated by the Law on Electronic Communications and the Law on the Establishment of the Public Enterprise Macedonian Radio & Television.

Since 2005, i.e. since the adoption of the present Law on Broadcasting Activity, pursuing a broad-

⁷⁰ Report on the operation of the Agency for Exercising the Community Rights for 2010. Pg.6. Available on: <http://www.aopz.gov.mk/materijali/izvestaj%20za%20rabota%20za%202010.pdf>

⁷¹ Website of the Agency for Electronic Communications. Available on: http://www.aek.mk/index.php?option=com_content&view=category&id=49&Itemid=103&lang=mk

⁷² Ibid.



casting activity in Macedonia has been based on the issuance of a license, and not a concession as in the previous period. Licenses are awarded autonomously by the Broadcasting Council by means of a competition procedure precisely described by the Law. Namely, Chapter 5 describes what the manner of announcing a competition is, which data and requests it should comprise, what the candidates' applications should contain, which criteria should be taken into consideration while evaluating applications, how the license fee is calculated, the content of the license, the conditions under which it may be taken away, etc.

Foreigners may compete for a license under the same conditions as nationals.

The provisions on the prevention of media concentration are elaborated in greater detail in part II.A.2.1.

2.7 State plan for spectrum allocation promotes diversity of ownership and content

Indicators:

- Plan ensures that broadcasting frequencies are shared equitably among public, private and community broadcasters and among national, regional and local broadcasters
 - Frequencies are not required to be auctioned off to the highest bidder if the public interest is better served by other bidders
 - Part of any digital dividend should be allocated back into broadcasting (i.e. that not all freed up frequencies are sold to the highest bidder)
 - There should be some 'must-carry' obligations on satellite and cable carriers, at a minimum, to carry PSB channels among the choices they offer as well as the possibility of must-carry obligations to promote diversity (e.g. in favour of minority channels)
-

The license of the Public Service Broadcaster MRT is awarded by the Law on Broadcasting Activity. In the commercial and in the non-profit sector there are no guaranteed frequencies, but licenses are awarded upon competition and the best bidders obtain them. The Council obtains information regarding the needs and opinions of the audience of radio and TV programmes from audience polls. In addition, it finds out about ideas on new media by so called letters of intention, i.e. all those interested to open a radio or television station are encouraged to elaborate their idea in written.

The license to pursue broadcasting activity on commercial basis is, among other things, related to a special format, that is, nature of the programme service. The legal provisions referring to the format and the amount of the license fee for any of them are operationalized by the Broadcasting Council in a special by-law – "*Rulebook on the format of radio and television programme services*". The Strategy for Development of the Broadcasting Activity underlines that as a basis for the determination of the format "[...] all three basic media functions: to educate, to inform and to entertain" are taken into account "and in the case of the radio, the basis is complemented by the correlation talk as opposed to music in the total programme [...]"⁷³ The purpose of formats is to give broadcasters greater freedom to build and change their programme scheme without asking for consent of the regulator, but thereby not infringing upon the license programme conditions. Namely, television and radio stations may react to market changes and needs of the audience more easily by replacing pro-

⁷³ Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC. Pg. 83. Available on: http://www.srd.org.mk/images/stories/publikacii/strategija_zarazvoj_na_radiodifuznata_dejnost_2007_2012.pdf.

grammes different in genre, but with the same function. For instance, should they determine that their news is not viewed, they can replace it with a high-quality topical information programme. It is important not to change the correlation of media functions informative-entertaining-educational, which is different for each format.

The “*Rulebook on formats*”, relating to commercial broadcasters, is one of the mechanisms to realize the public interest in the broadcasting field, because it “[...] was created with the purpose to stimulate programme services with more educational genres [...] [and] those [radio] stations that broadcast more talk content [...]”,⁷⁴ so for them a lowest license fee is paid.

Another element of the support to the public interest is the obligation of commercial broadcasters to protect and develop the cultural identity by means of daily obligations of vocal-instrumental compositions in Macedonian language or in a language of the ethnic communities in the country. Such obligations are higher for the public service broadcaster.

Broadcasters on national level shall be obliged to provide for representation of European audiovisual works to the amount of at least 51% of the total annual broadcast programmes, whereby the total annual broadcast time does not include the air-time dedicated to broadcasts for news, sports events, gameshows, advertising, teletext and teleshopping services (Article 73).

All operators of public communication networks are obliged to transmit free-of-charge (must-carry obligation) all the programmes of the public service broadcaster. Thereby, even though it is not an obligation arising from the Law, upon insisting of the Broadcasting Council the operators should also transmit programmes of national commercial stations on the territory of the whole country, whereas on local level to transmit programmes of the precise local area. This is done in the practice, even though it is not an obligation arising from the Law.

Regarding the usage of the digital dividend, the stance of the Broadcasting Council is that the frequency spectrum which is to be freed by digitizing analogue broadcasting should be further on used for audiovisual services (for instance, High Definition TV development).⁷⁵ The Macedonian Government has reached a decision that the whole sub-span from 790 MHz to 862 MHz will be used for 4G, as well as for wireless broadband Internet.⁷⁶

74 Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC.

75 See: http://www.srd.org.mk/index.php?option=com_content&view=article&id=122%3Aidninata-na-televizijata-i-digitalnata-dividenda&catid=42%3Atop-temi&lang=mk

76 See: <http://epolicy.mk/wp-content/uploads/content/Koristenje%20na%20Digitlnata%20Dividenda%20za%20voveduvanje%20na%204G%20i%20wireless%20broadband/Zaklucok%20na%20Vlada%20za%20koristenjeto%20na%20Digitalna%20Dividenda.pdf>



2.8 Independent and transparent regulatory system

Indicators:

- Broadcast licensing processes and decisions are overseen by an independent regulatory authority, which meets international standards (see Section 1.B Regulatory system)
 - Broadcast licence applications are assessed according to transparent and objective criteria set out in law
 - Fees for different types of licenses are transparent and set out in advance
 - Regulators actively monitor frequency use to ensure that actual usage conforms to license conditions
-

The license award process is regulated in detail by the Law on Broadcasting Activity, with an aim to ensure transparent, independent and non-discriminatory decision-making by the regulatory authority. So as to issue licenses to pursue broadcasting activity, the Broadcasting Council opens a public competition (Article 43), but prior to that, the Broadcasting Council has to conduct a public survey and analysis in terms of the type of programme services that need to be covered by the competition from the aspect of the needs of the audience, and may consult the interested stakeholders (Article 45). According to the Law, the Council determines the number of licenses, i.e. radio and television programme services for which the public competition is being announced, taking into consideration criteria such as ensuring diversity and quality of programmes, meeting the needs of the audience, developing the pluralism, economic potential of the market and promotion of fair competition and technical resources and facilities (Article 46). The deadline for submission of applications is from 1 to 3 months. The Broadcasting Council evaluates the received applications on the basis of the following criteria: the nature of the offered radio or television programme service, the genre and thematic diversity of the programme service contents, the percentage of programmes originally produced in Macedonian language or in the languages of the ethnic communities that are not a majority in the Republic of Macedonia in the total planned daily programming, the presence of programmes treating events and cases of relevance for the area covered by the broadcast programmes, as well as the participation of European audiovisual works; the presence of programmes that promote the development and preservation of the national culture, etc, technical requirements for the production and transmission of programmes, in compliance with the prescribed standards, requirements to pursue the activity in terms of available space and facilities, the number and structure of human resources required to pursue the activity, the financial capacity to pursue the activity over the duration of the license, as well as offered guarantees, and other conditions that contribute to the promotion of pluralism in broadcasting activity, promotion of fair competition and improved exercise of the right to information, i.e. meeting the demands of the audience in a given area (Article 51).

However, in the practice, not always did the regulatory body consistently apply these provisions, which was especially noticeable during the competitions opened after the adoption of the Law on Broadcasting Activity in 2005. The most evident example of how the license award process can be used by the regulator in an arbitrary and inappropriate manner are the license award decisions reached for analogue transmission in the course of the digitization process in Macedonia. Namely, the implementation of the Strategy for Development of the Broadcasting Activity, adopted by the Broadcasting Council, was marked by numerous controversies. This especially refers to envisaged activities connected with the digitization of terrestrial television. Namely, instead of accepting the recommendations given by

experts involved in the preparation of the Strategy in terms of introducing a moratorium for further allocation of analogue frequencies for terrestrial broadcasting, the Council continued to award such licenses in 2008 and 2009. In the public, the explanation was that awarding such frequencies was indispensable so as to ensure further pluralism, even though according to the Strategy the media facilities could not function in certain areas because they would have no sources of financing.

Therefore, instead of undertaking the task to clear the waves so as to enable the process of digitization, the Council awarded a large number of licenses in the course of 2008 and 2009 both on national and local level. As a result of that, in 2011 the broadcasting market in Macedonia was more fragmented than ever before, with a total of 157 commercial broadcasters, of which 77⁷⁷ are commercial TV stations (18 national, of which 5 terrestrial and 13 satellite, then 10 regional and 49 local), and 77 are commercial radio stations (3 national, 16 regional, 58 local) and 3 are non-profit radio stations.

The greatest problem is how the Council adopted the license award decisions in the course of 2008. There were several violations to the Law, the tender documentations and the rules listed in the Code of Conduct of the Broadcasting Council.⁷⁸ So, for instance, the Council accepted several applications submitted after the stated deadline, even though it was explicitly stated in the tender documentation that that would not be the case; incomplete applications were also accepted, i.e. applications lacking proper documentation (without a technical elaborate, financial plan, document as a guarantee for the financing of the business plan, etc.); those applicants who lacked certain documents were invited to an interview with the Council members and were instructed to submit additional documents; and the professional services were ordered to fill in new application forms for those entities who had not submitted correct or complete information about the format of the programme for which they apply, etc. Even though bound by Law, the Broadcasting Council did not give an explanation in public about the actual need for awarding so many new licenses to pursue broadcasting activity via a satellite, that is to say, how those licenses would contribute to pluralism and diversity in the media landscape in Macedonia. One question is what the real reasons were behind that "multiplication" of licenses on the already fragmented television and radio markets. The first explanation is that the regulatory authority was under such a strong pressure coming from certain business/ political centers of power which, as other influential owners of media, also wanted to have their own TV stations so as to shape public opinion. Secondly, the regulator itself, bearing in mind what was previously said about authorizations, political affiliation and personal/ group interests, gave in quite easily to those pressures. Theoretically, such a behavior may be related to the theory of political clientelism,⁷⁹ even though this is a topic which should be additionally researched. Thirdly, there is an explanation that the Council in fact strived to increase the level of funds collected by the fees for broadcast licenses so as to ensure its financial stability, specifically taking into account that the broadcasting system was almost not functional at all.

The awarding of licenses over the last two years was carried out contrary to the strategic goals set in the Strategy for Development of the Broadcasting Activity. Even though the Broadcasting Council declared that the new analogue broadcast licenses are awarded to ensure pluralism, pluralism is in

77 The Broadcasting Council still (2012) has not rescinded TV A1's license, even though the television station does not air programme.

78 The author of this part of the report was employed at that time in the permanent services of the Broadcasting Council and made several attempts (some of them in writing as well) so as to direct the attention towards the irregularities in the procedure.

79 Hallin, Daniel & Stylianos Papathanassopoulos (2002) „*Political clientelism and the media: Southern Europe and Latin America in comparative perspective*“ in *Media, Culture & Society*, 24 (2), 2002: 175-195.



fact only achieved from a quantitative perspective. On its own, this had serious consequences for the whole media market which was already too fragmented. The number of national television stations is higher than anywhere else - over the last two years it rose to 21 - and this influenced the markets of both radio and printed media, because the TV sector attracts the largest part of advertising costs.⁸⁰

The 2010 Progress Report of the European Commission also emphasized that the award process for licenses to pursue broadcasting activity was under strong influence of the economic and political interests. The reports of the European Commission have indicated for years that the Broadcasting Council, even though an independent regulatory body by definition, is subject to political pressure.⁸¹ The reports from 2010 and 2011 conclude that the Broadcasting Council has strengthened its capacity, but that its financial autonomy has not still been provided, and that it is not ready to effectively monitor the market.

The inconsistent regulatory policy in the broadcasting field, during 2009 and 2010, seriously reflected on the digitization of terrestrial television. Namely, without prior adoption of the necessary legislation (listed in the digitization scenario), a tender notice was published for allocating digital multiplexes on national level. Apart from this, the Strategy determined that with a view to preserving the media and cultural pluralism, two national multiplexes should be allocated for re-transmission of broadcast free-of-charge domestic TV channels on national level. But, instead of two, three national multiplexes were allocated to a foreign telecommunications company, which now uses the national digital frequencies for re-broadcasting of foreign TV channels the most. In April and May 2010, a huge dispute arose between the licensed digital terrestrial operator and four commercial TV channels broadcast free-of-charge (Alsat-M, Telma, Sitel and Kanal 5)⁸² due to the problems "must carry" and "must offer", as well as because the composition of channels on the platform of the digital terrestrial operator is not regulated by law. The four TV stations complained about the unfair competition because the commercial TV station on national level - A1 television, illegally promoted and sold the digital package of the digital terrestrial operator.

At the same time, the role and contribution of the Public Service Broadcaster in the process of digitization is still a controversial topic, on which it is even not debated by the broadcasting regulator itself which role, as stated in the Strategy, is to care for the goals of the public interest in the digitization of terrestrial television.

80 In the course of five years, from 2004 to 2009, the advertising costs in the TV sector increased from 8,27 to 27,15 million Euros, in the radio sector from 1,44 to 1,84 million, whereas in the printed media sector they decreased.

81 European Commission. Reports on the progress of the Republic of Macedonia 2006-2010. Website of the Secretariat for European Affairs, <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControlID=lzvestaiEU.ascx>

82 „Сител, Алсат М, Канал 5 и Телма сами ќе се исклучајќи од Бум ТВ,” (Sitel, Alsat-M, Kanal 5 and Telma will exclude themselves on their own from Boom TV) Vest, 13 May 2010. Available on: <http://www.vest.com.mk/?ItemID=35DEFA1252A3EE46A0B42CFC88C4BEB2&arc=1>



D. TAXATION AND BUSINESS REGULATION

2.9 State uses taxation and business regulation to encourage media development in a non-discriminatory manner

Indicators:

- Preferential tax, import duty and tariff regimes to encourage the development of broadcasting and print media
 - State does not impose prohibitive taxes or levies on media organisations
 - State tax policy and practice does not discriminate against the media nor favour specific private media outlets over others
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A preferential tax rate in the amount of 5% (the general tax rate is 18%) applies for books and printed media, following a previously issued opinion by the Ministry of Culture of the Republic of Macedonia. An exception is newspapers, magazines and other periodical publications containing more than 50% of advertising content (i.e. have predominantly an advertising purpose) or have, on the other hand, pornographic content. Subsidies that the state used to give to daily newspapers were abolished in 2006.

No tax reliefs are foreseen for entities pursuing television or radio activity. In accordance with the provisions of the Law on Value Added Tax, the tax is calculated by the general tax rate, which amounts to 18%. Until now, no official initiative has been raised for the application of a preferential tax rate either by the broadcasters, or by the state.

Regarding customs duties that media organizations have when importing equipment, materials and programme, the general rates which are valid for all companies are applied.

These tax rates apply for all entities operating in a certain media sector, and in the practice until now no examples of discrimination have been noticed, i.e. of favouring certain media through the tax policy.

However, in the research "*Media Sustainability Index*" (MSI) for the year 2011 of the American organization IREX⁸³, one of the interviewed panelists states that in practice, the tax authorities apply pressure on the media, hampering their operations, whereby the A1 TV case is mentioned. Another panelist emphasizes that tax enforcement is a tool for pressure against the media, that is to say, almost all owners act similarly (by not complying with tax laws), but tax control is selective. Despite public demands that all of the media outlets should be cross-checked by the Public Revenue Office, to prove that the approach is non-selective, as of the time that the MSI was published, IREX's research underlines that only A1 TV had been targeted by the financial police and the Public Revenue Office.⁸⁴

83 IREX (2011) „*Media Sustainability Index*“. Available on: http://www.irex.org/sites/default/files/EE_MSI_2011_Macedonia.pdf. Pg. 72

84 Ibid. Pg. 72



E. ADVERTISING

2.10 State does not discriminate through advertising policy

Indicators:

- State places advertising in a fair, transparent and non-discriminatory manner e.g. through a code of conduct
 - Allocation of government advertising is strictly monitored to ensure fair access by all media
 - Public service broadcasters are subject to fair competition rules in respect of advertising they carry
 - Codes of conduct or other guidelines for the allocation of state-funded advertising implementation
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The question of allocation of state commercials and campaigns ordered by the Government in certain media is particularly significant, taking into account that these funds are a significant revenue source for the media. In 2009, among the most significant advertisers on the television market was the Government of the Republic of Macedonia, having the fifth place, with approximately 12 million Euro allocated for television advertising, and in 2008 it had the second place, with something over 17 million Euro.⁸⁵ These amounts refer to the gross amount of broadcasted commercials, that is, are calculated according to prices in official price lists and do not take into consideration the discounts that the media had approved, thus it is expected that invoiced amounts are lower.

In spite of the obvious importance of this issue, there is no legal act defining the government advertising conditions. Regarding the content of advertising spots, the same provisions are valid as with commercial advertising from the Law on Broadcasting Activity.

In accordance with the legislation on public procurement, the Government announces a competition for hiring an agency, which apart from producing the advertising spot, prepares the plan on media promotion and the purchase of advertising time with television and radio stations and the advertising space with printed media.

Over the last 3 years, the Government has been often accused in the public that by the selection of the medium where to place the advertising content it practices discrimination, that is to say, it favours certain media. These accusations refer the most to the non-transparent allocation of budget funds, according to the audience ratings data, i.e. viewership and listenership, as is the case with economic advertising, which means that these funds are allocated on the basis of who is close to the media.⁸⁶

In this direction, the Macedonia 2011 Progress Report of European Commission expresses concern that the Government is one of the biggest advertisers in the country and there are concerns that funds are directed to television channels which are supportive of the Government. In this context, it is also

⁸⁵ Broadcasting Council (2010) „*Analysis of the Market of Broadcasting Activity for 2009*“. Skopje: BC. Available on: http://www.srd.org.mk/images/stories/Analiza_na_pazarot_2009.pdf

⁸⁶ „Транспарентноста како реклама“ (*Transparency as a commercial*), *Dnevnik*, 1 November 2010. Available on: <http://www.dnevnik.com.mk/default.asp?ItemID=7528CBD2A1A4CC4DA53E1B14EDBCD093>

emphasized that certain television channels are major donors to political parties.⁸⁷

Another serious accusation directed to the Government was that by advertising with budget funds, the Government influences the editorial policy of the media. The Macedonia 2009 Progress Report of EC expressed: "Public expenditure on State advertising is a significant source of revenue for some broadcasters, but is not sufficiently transparent and therefore has the potential to undermine editorial independence."⁸⁸ Of course, the Government refuted such accusations by means of official press releases, where it qualified such allegations as incorrect, untrue, and as typical faulty information.⁸⁹

Still, the impression remains that there is no transparency when spending money for advertising, bearing in mind that the Government until now has never notified the public of how many funds it allocated for advertising in each medium separately. Taking into account that the media themselves do not have such an obligation either, the amounts in the contracts for broadcasting advertising spots, which orderer is the Government, remain secret to the public.

The Law on Broadcasting Activity does not prohibit broadcasting commercials ordered by the Government on the Public Service Broadcaster. These commercials should respect the advertising standards stipulated by this Law and should be broadcasted within the foreseen limits and advertising periods of the Public Service Broadcaster.

The conclusions of the analysis of free-of-charge broadcasting on MTV conducted by the Broadcasting Council in 2010⁹⁰ clearly direct that the programmes behind the slogan "free-of-charge broadcasting" on the Macedonian Radio Television entailed hidden political advertising. Namely, the manner how these advertising spots have been produced, i.e. the graphics of the slogan equals the slogan of the ruling political party. In this way, these spots, which ought to otherwise be of public interest, get the features of paid political advertising, which, on the other hand, is prohibited on the Public Service Broadcaster MRT. On the other hand, however, the frequency and the volume of these advertising spots seriously put into question the autonomy of the editorial policy of the Macedonian Radio Television. It has been concluded that under the reference "free-of-charge broadcasting" typical advertising of the Government is being broadcasted, which apart from the influence over the editorial independence of the Public Service Broadcaster, also means direct disruption of competition. In December 2011, the Parliament accepted the Government's proposal to allow MRT to broadcast advertising in its prime time, as well as to increase the percentage of advertisements per hour broadcasted programme (of the existing 4% to 20% which equals the advertising time on private radio and television stations). Hereafter, a committees' discussion will follow in the Parliament. The proposal arrived at a moment when a draft was prepared (and in December already promoted) for a new media law, which should be harmonized with the new technological and communication trends, as well as with the European legislation.

Otherwise, the public campaigns and advertising of the Government in the media were pointed

87 European Commission. Progress Report on the Republic of Macedonia for 2011. Available on: <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControllID=IzvestaiEU.ascx>

88 „Владаџа љродолжува со рекламиџе“ (*The Government continues with the advertising*), TV Alfa, 21 April 2011. Available on: <http://vesti.alfatv.com.mk/default.aspx?egId=6&eventId=36208&mId=36>.

89 „Деманџ од Владаџа на љрилоџоџи ‘Коруџиџиџа озаконеџиџа во реклами’ емиџуван на А1 џтелевизиџа“ (*Refutation of the Government to the TV package ‘Corruption legalized in commercials’ broadcasted on A1 television*), Kurir, online medium. 1 February 2011. Available on: <http://kurir.mk/makedonija/vesti/18640-Demant-na-Vladata-na-prilog-na-A1-televizija>

90 Broadcasting Council (2010) *Report of the Analysis of spots broadcasted with the designation ‘free-of-charge broadcasting’ on MTV1, MTV2 and the Parliament Channel*. Skopje: BC Available on: http://www.srd.org.mk/images/stories/publikacii/Analiza_na_besplatnoto_emituvanje_na_MTV.pdf



out as one of the key problems in the talks between the Government and AJM. This topic was also an item in the Action Plan of MIM and AJM, prepared after the Mavrovo meeting, whereby the following problems were listed: no clear criteria regarding budget funds for public campaigns and advertising, non-transparency in the work of marketing agencies, their major influence over the media content, selective marketing according to non-market criteria, non-transparency in circulation and ratings, non-existence of coordination systems of all participants in the media market, etc. The advertising of the Government and of public institutions was pointed out as one of the ways of corruption in the media.

However, advertising should also be considered from another perspective - the existence of a secret bond between the Government and television stations on the one hand, and television stations and private businesses on the other. If, on the one hand, the Government or the institutions favour certain media, there is a situation, when some businesses advertise themselves constantly and only in single media, or, only in a single show. Namely, there is the so called hidden marketing, i.e. contracts not only between the television stations and the Government, but also between television stations and various business centers.

2.11 Efficient regulation covering advertising in the media

Indicators:

- Broadcasters and print media adhere to nationally or regionally-agreed limits on advertising content, where applicable
 - Broadcasters and print media adhere to nationally or regionally-agreed guidelines for the separation of advertising and programming, where applicable
 - Existence of a code of advertising, established by an independent professional body, to prevent misleading advertising
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The conditions for broadcasting advertising spots on radio and television programmes are stipulated in Chapter 7 of the Law on Broadcasting Activity. For commercial broadcasters, the total duration of advertising spots must not exceed 12 minutes of broadcasting for one clock hour, that is to say, it must not exceed 20% of broadcasted time per day. The advertising on the Public Service Broadcaster is not allowed in the period from 17:00 to 21:00 on the television programme services and from 07:00 to 14:00 on the radio programme services, and the duration of advertising must not exceed 4 minutes and 12 seconds of each clock hour of broadcasted programme, that is to say, must not be longer than 7% of broadcast programme per day.

In December 2011, the Parliament adopted, in first phase, the proposal of the Government to amend the Law on Broadcasting Activity, by which the amount of the broadcasting fee that citizens should pay would be increased. The explanation of the proposers was that in this way the financial viability and independence of MTV would increase. Additionally, following the potential amendments, MTV could broadcast advertising in prime time and independently organize lottery games. The draft amendments are yet to enter the parliamentary procedure, i.e. to be discussed in the competent committees. The opposition opposed to this proposal with the explanation that this would be a blow for private media financed by advertising and sponsorships.⁹¹

91 In January 2012 the Parliament passed these amendments

The Law on Broadcasting Activity foresees that advertising and teleshopping windows shall be clearly separated from the other part of the programme by optical and acoustic means.

In addition, the issue of the content of advertising spots is regulated in the provisions of Chapter 7 of the Law on Broadcasting Activity, where it is clearly stated that the advertising and teleshopping shall be accurate and honest, shall not mislead the public and shall not be directed against the interests of the consumers, i.e. users of services.

The fulfillment of these obligations arising from the Law is monitored by the Broadcasting Council. In the "2010 Operation Report of the Broadcasting Council"⁹² despite clearly stated that during the analyses "violations to the Law on Broadcasting Activity and to the bylaws were detected with all the media," not a single measure was sentenced to the commercial broadcasters for their violations to the provisions under this chapter of the Law. Only the Public Service Broadcaster was warned several times in written. In the "2009 Report of the Broadcasting Council,"⁹³ it is also stated that violations to the Law were detected with all analyzed broadcasters, and as one of the most frequent violations were given the provisions relating to advertising, teleshopping and sponsorship. On the other hand, during the whole year, the Council issued only one written warning against one commercial broadcaster for covert advertising and one written warning with a request for publication on the Public Service Broadcaster because the advertising was not clearly separated from the other part of the programme by optical and acoustic means.

Advertising in printed media is not regulated by a legal act, nor is there an institution which has the competence to take care of that.

One of the recommendations of the media community in Mavrovo was that independent mechanisms and bodies should exist in the field of media industry and market, which would regulate the relations between the market players and would monitor the implementation of agreed mechanisms, as for instance, advertising codices, self-regulatory bodies, multipartite industry committees, which would determine the criteria and manner of operation of the industry (e.g. lowest marketing price, etc.).

92 Available on: <http://www.srd.org.mk/images/stories/doc/izvestaj%20za%20rabota%20na%20srd%20za%202010%20godina.pdf>

93 Available on: http://www.srd.org.mk/images/stories/lzveshtaj_za_rabotata_na_SRD_za_2009.pdf



RECOMMENDATIONS:

1) Determining clear criteria (as for instance data on actually achieved circulation figures, audience ratings, i.e. viewership and listenership) for transparent distribution of budget funds for public advertising/campaigns of the Government, state institutions, public enterprises and local self-government bodies, including agencies or regulatory bodies, both in conventional and new media.

2) Creation of mechanisms for monitoring the placement and effects of advertising in media financed by budget or public funds, as for instance - codices of transparency or establishment of independent bodies by the media industry itself, which would at the same time regulate the relations between the various actors on the market and would supervise the fulfillment of contractual obligations.

3) In the process of harmonization of the present broadcasting regulation with the Audiovisual Media Services Directive, a census of generated annual revenues should be determined, above which - an obligation for transformation of broadcasting companies from LLC One Person (DOOEL) to joint stock companies should be considered. Thus, additional capitalization of the television industry will be stimulated with domestic and foreign capital, the transfer of technology and knowledge will be accelerated and production of higher quality domestic and original production will be motivated. Higher forms of ownership structure would also create new corporation management and governance standards, and in this way socially recognizable mechanisms would be created for balancing the editorial policy of media, their independence on the market and the complex conjuncture of legitimate interests and influences of various actors in the society.

4) A comprehensive analysis of the achieved level of pluralism in the media landscape in Macedonia, in terms of legal pre-requisites, pluralism of ownership, pluralism of media and genres, as well as the political, cultural and geographic aspect of media pluralism.

5) Raising the capacity of the regulatory body in the broadcasting field, but also of other entities with regulatory or supervisory function, with the aim of shaping and implementing a regulatory policy which leads to competitive pluralism, content diversity in the media landscape, both in quantity and in quality. This primarily refers to preventing media concentration, which turns the small market, such as the Macedonian one, into a sort of a gladiatorial arena, by which the media are "usurped" by the audience

III. MEDIA AS A PLATFORM FOR DEMOCRATIC DISCOURSE

A. MEDIA REFLECT DIVERSITY OF SOCIETY

3.1 The media - public, private and community-based - serve the needs of all groups in society

Indicators:

- Media use language/s which reflect the linguistic diversity of the target area
 - Media use language/s relied upon by marginalized groups
 - Community media (print or broadcast) is produced for specific groups e.g. indigenous and tribal peoples, refugees
 - State or public media in practice represent the views of the entire political spectrum and a wide spectrum of social interests, including the weakest sections of society
 - Information presented by the media is accessible to women and marginalised groups (e.g. takes account of how these groups access information, including levels of literacy)
-

Macedonia is a country of the Macedonian people and of the citizens living within its borders, and are part of the Albanian people, the Turkish people, the Vlach people, the Serbian people, the Roma people, the Bosniak people and others. The multiethnic character of the society is the basis of the highest legislative act, the Constitution, and as such it reflects on the legislation in the media landscape. The Constitution of the Republic of Macedonia guarantees the members of nationalities their right to freely express, foster and develop their identity and national attributes (Article 48). The same article mentions that the Republic guarantees the protection of the ethnic, cultural, linguistic and religious identity of the nationalities, as well as the right of members of nationalities to establish institutions for culture and art, as well as scholarly and other associations for the expression, fostering and development of their identity.

The Law on Broadcasting Activity stipulates that the Public Service Broadcaster Macedonian Radio Television shall broadcast one television programme service and one radio programme service in the language spoken by at least 20% of the citizens that is different from the Macedonian language, as well as in the languages of the other non-majority communities (Article 117). In addition, MRT is envisaged to broadcast special radio programmes intended to inform emigrants and citizens of the Republic of Macedonia living abroad. Such programmes should also be broadcasted on satellite programme services - one radio and one television.

Otherwise, the Law on Broadcasting Activity handles the issues of subtitling of programmes (Article 83), translation of advertising and teleshopping spots (Article 104), and even of announcements for foreign language programmes that are not translated (Article 83) - they should all be translated in the language of the community for which the programme is intended.

In 2002, the Second programme service of the Macedonian Television (MTV2) was fully concessioned for broadcasting programmes in the languages of ethnic communities. Thereby, the duration of current programmes was increased, and programmes were also introduced in the languages of some of the smaller communities. In the "*Analysis of MRT's Programmes*", conducted by the Broadcasting Council



in 2010, it is stated that on MTV2 the Albanian language programme predominates, with approximately 96 hours a week, which represents a share of approximately 18% of the weekly programme of MRT's three channels and the Parliament's channel.⁹⁴ Then follows the Turkish language programme (approximately 16 hours and 30 minutes a week, which is 3% of the total weekly programme), whereas the programmes broadcasted in Serbian, Vlach, Bosnian and Roma language are minimally represented, with round one and a half hour a week, that is to say, 0,3% share of the weekly programme of MTV.

Regarding the duration and quality of content of the programmes in the languages of ethnic communities on the Macedonian radio station, the same Analysis points out that 119 hours of programme are weekly broadcasted in Albanian, 35 hours of programme in Turkish and per 3 hours and 30 minutes in Vlach, Roma, Bosnian and Serbian language (page 85). In the structure of the programme "the informative function of the medium predominates, and above all, the news". Of the programme in Albanian it is characteristic that, apart from the news of own production, news in Albanian is also broadcasted from Deutsche Welle and BBC. In addition, children's shows and music are broadcasted in Albanian, Turkish and Bosnian language. The talk content of each of the programmes is accompanied by music in the respective language, whereby pop music or traditional popular music is most often broadcasted.⁹⁵

The Broadcasting Council, in its *Analysis*, concludes that MRT, having the programmes in the languages of non-majority communities fulfills significant functions of the public service - broadcasts programmes for the whole public, its programmes are open to the various cultures which are a compound part of the society and contribute to the preservation and fostering of the national identity and linguistic culture. However, a conclusion of the Council is that it should be deliberated thereon for the programmes in Roma, Serbian, Vlach and Bosnian to be broadened, because despite insisting on offering diversity of topics and information, they cannot achieve that due to limited duration. It is also recommended to improve the quality of programmes which, above all, stimulate development and preservation of the national culture, as well as the quality of programmes which inspire a culture of dialogue and strengthen mutual understanding and tolerance between communities in a multiethnic and multicultural environment.⁹⁶ One of the recommendations arising from the "Mavrovo meeting" was also increasing the volume of domestic production both with PSB MRT and with commercial media, because at the moment, the programme, and especially the prime time, is oversaturated with series of foreign production. Furthermore, during the expert discussion on the occasion of this analysis the same commitment was emphasized, and as one of the ways was pointed out setting a criterion when awarding licenses.

With regards to what extent PSB MRT reflects various political stances, indications may be obtained by the analysis of the Broadcasting Council published in 2009 - Political pluralism in the news of the Public Service Broadcaster, which points out that in Macedonia there are no precise legal provisions on the provision of political pluralism outside of a period of electoral campaign. "However, in the Law on Broadcasting Activity, in the programme standards it is determined that radio and television programmes should be based on the principles of openness to diverse political views and positions and of objective and unbiased presentation of events, with equal treatment of diverse views and opinions, enabling the free creation of the audience opinion on individual events and issues and guaranteeing the right to reply and correction."

94 The Macedonian television station daily broadcasts 73-hour programme on its three channels and on the Satellite channel. Source: website of MRT http://mrt.com.mk/MK/za_mrt.aspx

95 Broadcasting Council (2010) „*Analysis of MRT's Programmes*". Skopje: BC. Pg.19. Available on: http://www.srd.org.mk/index.php?option=com_content&view=article&id=93&Itemid=76&lang=mk

96 Ibid. Pg.60.



The analysis determines that in the news broadcasted on the First programme service of MTV (period from 5th to 11th July 2010) political pluralism was not provided,⁹⁷ that is to say, most represented were the representatives of institutions of the government (members of the Government), and far behind them were other entities, especially parties of the parliamentary majority and the parliamentary opposition. The picture is almost identical with the news in Albanian, i.e. most represented were the representatives of institutions of the government, and far less the civil sector or international entities.⁹⁸

With regards to commercial broadcasters, in the cases of programme intended for a non-majority community, they broadcast the programme in the language of that community (Article 82 of the Law on Broadcasting Activity). These broadcasters also fulfil the legal obligations to foster the cultural and linguistic features of the ethnic community for which they are intended, i.e. the obligation to dedicate at least 30% of their daily broadcast time to programmes originally created in a certain language and at least 30 % of their broadcast vocal-musical compositions in that language (Article 74). Such obligation is higher with the Public Service Broadcaster, and for the radio service it amounts to 40% of programme originally produced in the languages of non-majority communities and at least 45% of the broadcasted vocal-musical compositions (Article 124).

In 2010, 19 television stations and 13 radio stations broadcasted programmes in some of the languages of non-majority communities. On national level, two television stations operate in the languages of other communities: one terrestrial national television station TV Alsat-M, which apart from programmes in Albanian, broadcasts programmes in Macedonian as well, and one satellite television station in Albanian - TV Alb.⁹⁹ The third one, the satellite television station, ERA SAT renounced its license in November 2010 due to financial reasons. On regional level, in Skopje, four television stations and two radio stations function: TV BTR and TV Shutel, in Roma language and Macedonian, TV Edo, in Bosnian, and TV Era, in Albanian, as well as the radio stations Arachina and Vat, also in Albanian. On local level there are 15 radio and television stations airing programme only in Albanian, then one radio station and one television station broadcasting programme in Albanian and Macedonian, one television station in Albanian, Macedonian and Turkish, one in Bosnian, Macedonian and Albanian, one radio station in Macedonian and Turkish, one radio station in Macedonian, Serbian and Croatian, one television station in Macedonian, Turkish and Albanian and two radio stations in Roma and Macedonian language.

The Law also allows the establishment of non-profit broadcasters, which was one of the possibilities to transform public broadcasting companies on local level. One of the goals of introducing the non-profit sector was to enable a new form of meeting the programme needs of small ethnic communities, following the example of other European countries. Taking into consideration the changes in the European audiovisual policy, in the period from 2007 to 2010 it was expected to intensify the measures for development of the non-profit media sector and for enrichment of linguistic pluralism in the media offer, specifically in terms of the rights of smaller ethnic communities whose media did not succeed to survive on the market in the past. However, non-profit broadcasters did not start functioning as expected. As previously explained, Radio Dost FM from Shtip which broadcasted programme in Turkish language returned its license in September 2010, with the explanation that it could not survive due to lack of financial resources.¹⁰⁰

97 Broadcasting Council (2010) Political pluralism in the news of the Public Service Broadcaster. Skopje: BC. Pg. 13

98 Ibid. Pg. 15, 17

99 In 2011, TV Alb returned its license

100 Group of authors (2011) „Analysis of the Ethnic Communities Media in the Republic of Macedonia“ Skopje: MIM and School of Journalism and Public Relations. Available on: http://mim.org.mk/attachments/342_sostojba%20so%20mediumite%20na%20jazicite%20na%20zaednicite_v4g.pdf

The Broadcasting Council should consistently implement what it envisaged for non-profit media in the Strategy for Development of the Broadcasting Activity.¹⁰¹ Until now most of the measures set in the Declaration of the Council of Europe on the role of community media in promoting social cohesion and intercultural dialogue have not been undertaken, that is to say, a comprehensive analysis of the needs of the ethnic, but also other social communities in the media sector has not been conducted; not a single project has been initiated for support to the community media programmes; no reserved frequencies for the non-profit sector; no precise plan for development of this sector in the digital surrounding; no initiatives for financial support for this sector, etc.¹⁰²

With regards to printed media, in the middle of July 2011, in Macedonia three daily newspapers were published in Albanian language: *Koha*, *Fakti* and *Lajm*, and from September 2011 the Albanian newspaper *Zurnal* went to press. The newspaper *Koha e Re* (Koha e Re) ceased being published at the beginning of July 2011. This newspaper was part of the groupation of media related to Velija Ramkovski, suspected of having evaded taxes, after which several of his media ceased being published or died out. From 2009, the weekly periodical *Tea Moderna* has an edition in Albanian. Editions which produce content in Albanian on regional level are *Kichevsko ogleдалo* (Kichevo mirror), bilingual newspaper of the Kichevo region formed two years ago, as well as the bilingual monthly for youth, *Time Out*, published in Kumanovo, and issued by the non-governmental organization Inter-ethnic Project.

Of printed editions of other communities, the weekly periodicals *Zaman* and *Yeni Balkan* are published in Turkish. Newspapers or weekly periodicals in the languages of other communities do not exist. According to what happened during the previous years, if such papers appeared on the market, they would have insignificant circulation and die out quickly.

The 2011 Progress Report of the European Commission emphasizes that the cease of operations of A1 TV, as well as of the newspapers *Vreme*, *Shpic* and *Koha e Re* (Koha e Re), which were critical of the current Government, influenced the weakening of the diversity of the media landscape.

On the other hand, there is no data to what extent media information is available to women and various marginalised groups. This may be explained by the fact that until 1995 registration of media was practiced in the Ministry of Information, which was later transferred as an obligation to the Information Agency. By abolishing the Agency, the registration of media was also abolished. That led to a situation where no registered data of the number of printed media existed, of the genre of structure of media, of the number of local and regional printed media, of the existence of specialized magazines, of the language they are published into, number of employees and similar data.

101 Available on: http://mim.org.mk/attachments/342_sostojba%20so%20mediumite%20na%20jazicite%20na%20zaednicite_v4g.pdf

102 Group of authors (2011) „Analysis of the Ethnic Communities Media in the Republic of Macedonia.” Skopje: MIM and School of Journalism and Public Relations”. Pg. 29



3.2 Media organizations reflect social diversity through their employment practices

Indicators:

- Female journalists are fairly represented across the media industry or sector, including at senior levels
- Journalists from minority ethnic, linguistic or religious groups are fairly represented across the media industry or sector, including at senior levels

In Macedonia there is no precise data of the number of active journalists in all media, and even less of their number regarding their ethnic origin or affiliation to religious or other linguistic groups. Only the Broadcasting Council within its annual analyses on the market carries out researches about the structure of employees in broadcasters on the grounds of sex, education and status. Regarding the employment policy, especially in terms of representatives of the various minority and linguistic groups, it may be said that in the national media in Macedonian language addressing the wider audience, the number of employees from other ethnic communities is low. Hereby, the example of the Alsat-M television station should be highlighted, as a private medium where staff is employed mainly from the Albanian and Macedonian community, but also from other communities, so as to achieve the programme conducted in two languages.

Otherwise, estimates as to the total number of journalists in the media industry are drawn from the number of journalists who are members of the Association of Journalists, as well as from researches of the Broadcasting Council. According to AJM, there are 1360 journalists-members, of whom 660 are women, but this figure does not encompass those who are not members of AJM, or, who are members of other associations of journalists. The Broadcasting Council, on the other hand, has on its disposal data that 765 journalists worked in the broadcasting media in 2011 (this figure does not include journalists who had worked in A1 TV), but it has no data as to the number of employees in printed and Internet media. The estimates as to the total number of journalists in Macedonia are inbetween 1000 and 1500.

Table 2. Structure of employees in the television industry

State on 31.12.2010													
Personnel		Total number		Education						Status			
				UNI		HS		other		Full time		Part time	
		F	M	F	M	F	M	F	M	F	M	F	M
1	Journalists	300	231	214	156	84	70	2	5	239	195	61	36
2	Editors	25	48	22	32	3	16	0	0	23	38	2	10
3	Managers	15	57	11	21	3	36	1	0	14	55	1	2
4	Tech personnel (engineers and technicians)	30	130	13	20	17	102	0	8	26	105	4	25
5	Control room personnel (directors, cameramen, assemblers, etc.)	98	475	19	79	77	357	2	39	96	412	2	63
6	Other personnel	157	132	50	31	96	88	11	13	137	122	20	10
TOTAL		625	1073	329	339	280	669	16	65	535	927	90	146

Source: Broadcasting Council, December 2011

According to the data of the Council, only 37 percent of the employees in the television industry were female. Women were more numerous in the personnel of journalists (64%) and additionally, of the total number of journalists in the television industry, most numerous were women journalists with higher education. Still, the greatest part of editors (44%) was males with higher education.

In the radio industry, 43% of the total number of employees were women, but they were more numerous as journalists (54%).

Table 3. Structure of employees in the radio industry

State on 31.12.2010													
Personnel		Total number		Education						Status			
				UNI		HS		other		Full time		Part time	
		F	M	F	M	F	M	F	M	F	M	F	M
1	Journalists	127	107	94	57	30	44	3	6	103	85	24	22
2	Editors	12	11	8	4	4	7	0	0	6	10	6	1
3	Managers	12	39	3	7	9	31	0	1	10	35	2	4
4	Tech personnel (engineers and technicians)	10	57	3	3	7	52	0	2	4	42	6	15
5	Control room personnel (directors, cameramen, assemblers, etc.)	26	82	3	14	21	60	0	10	19	76	5	8
6	Other personnel	49	22	7	8	37	10	5	4	45	22	4	0
TOTAL		236	318	118	93	108	204	8	23	187	270	47	50

Source: Broadcasting Council, December 2011

177 women worked in 2010 in the Public Service Broadcaster MRT, out of total of 344 journalists.¹⁰³ Thereby, in 2011, out of eight editors-in-chief of the First and the Second programme service, five were male, and three female.¹⁰⁴

Regarding the number of employees from different ethnic groups in PSB MRT, certain findings may be drawn from the "Analysis of the Ethnic Communities Media in the Republic of Macedonia," conducted by MIM and the School of Journalism and Public Relations. Herewith it is pointed out that community services on the Second programme channel on MTV (MTV2) do not have enough either journalistic, or technical and other production personnel (the last one are common for all MRT's services) so as to serve all the channels and to meet the obligations required by law, thus fulfilling the functions of a public service broadcaster. For instance, sectors such as healthcare and social policy, culture, education and music programme (significant in this context, in the direction of fostering the ethnic features of non-majority communities) in the programme in Albanian, are covered by one person, who has to report for the news, and to also prepare weekly shows. With regards to the children's programme, there is a journalist/editor, and the programme is conducted by presenters/ children.¹⁰⁵

The lack of personnel is even more visible in the editorial boards of smaller ethnic communities. According to the *Analysis*, the situation with the personnel of journalists is with them even graver, and

¹⁰³ Source: Broadcasting Council, data for 2010

¹⁰⁴ Source: Eftim Gashtov, Executive Director of MRT (2011)

¹⁰⁵ Group of authors (2011), "Analysis of the Ethnic Communities Media in the Republic of Macedonia." Skopje: MIM and School of Journalism and Public Relations. Pg.22

the number of cameramen, directors and other tech personnel necessary to carry out the whole production process is not merely enough. So, "one to two journalists conduct the whole programme of the Roma editorial board on MTV, the situation is the same with the Roma editorial board in the radio station, as well as with other editorial boards of smaller ethnic communities in the Second service of MTV and the third service of the Macedonian Radio. In a partially better situation is the Vlach editorial board of Macedonian Radio, where even four employees work, and the situation is also a little better in the Turkish language editorial boards."¹⁰⁶ On the other hand, the *Analysis* points out that in the Second Service of MTV, 11 directors are employed, but despite that there is a lack of original film programme, whereas the documentary programme is dying out and it comes down to a few projects a year.

B. PUBLIC SERVICE BROADCASTING MODEL

3.3 The goals of public service broadcasting are legally defined and guaranteed

Indicators:

- The public service remit of the PSB is clearly defined in law
 - The PSB has specific guarantees on editorial independence and appropriate and secure funding arrangements to protect it from arbitrary interference
 - The PSB has adequate technical resources
 - The PSB is publicly accountable, through its governing bod
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The functions of a Public Service Broadcaster in Macedonia are performed by the Macedonian Radio Television. Its mission is defined with the Law on Broadcasting Activity, in other words as a public service MRT shall be obliged to create and broadcast programme services of public interest that reflects the social and cultural pluralism in the State, and which consist of current affairs, cultural, educational, scientific and entertainment contents (Article 120). The principles and recommendations regarding the public service broadcasting determined in the European documents are summarized in four basic functions/tasks: universality, diversity, independence and quality. All these programme principles of the public service are fully incorporated in Article 121 from the Law on Broadcasting Activity (Official Gazette, Number 100/2005) and in some other legal provisions. In that regard, the Macedonian legislation is fully harmonized with the European documents. The Law defines the programme tasks which MRT is obliged to accomplish in order to fulfil public interest: to ensure protection from any kind of influence from government, political organizations, or centres of economic power in the programme services produced and broadcasted; to develop and plan programme schedule in the interest of the entire public and to produce and broadcast programmes for all the segments of society without discrimination, taking therein care of the specific social groups; to have programmes which reflect different ideas, foster cultural identities of ethnic communities, to respect the cultural and religious differences and to encourage the cultural public dialogue, in order to strengthen the mutual understanding and tolerance aiming towards improving the multicultural and multiethnic environment; to promote the respect of fundamental human rights and freedoms, democratic values and institutions, respect privacy, dignity, reputation and honour of the

¹⁰⁶ Group of authors (2011), „*Analysis of the Ethnic Communities Media in the Republic of Macedonia.*“ Skopje: MIM and School of Journalism and Public Relations. Pg. 23



person; in the course of the election campaign, to provide free of charge and balanced time for broadcasting programmes of political parties, coalitions, and candidates submitting lists of candidates for parliamentary, local, and presidential elections, as stipulated by the Guidelines on Media Presentation of Political Parties, Coalitions, Independent Candidates and their manifestos; to provide information on regional and local particularities and events in the Republic of Macedonia; to provide the necessary conditions for use and development of modern technical and technological standards in the production and transmission of programme services, and to draft a plan for transition, within a specified period of time, to digital technology, in compliance with the determined strategy for development of broadcasting in Macedonia; to ensure record-keeping and archiving of radio and television recordings and other material and documents from the work of MRT as part of the audiovisual treasure for/about Macedonia (Article 121).

With regards to the independence of MRT as a public service of the citizens, in the Law on Broadcasting Activity it is clearly stated that the programmes of MRT should be independent of any kind of centre of power: "For the purpose of fulfilling the public interest, MRT shall be obligated to ensure protection from any kind of influence from government, political organisations, or centres of economic power in the programme services produced and broadcasted" (Article 121, paragraph 1). Also, "MRT shall be obliged in the course of producing and broadcasting programme services to adhere to professional principles and to provide equal access to diverse interests in society, to advocate freedom of speech and pluralism in expressing public opinion [...]" (Article 122).

As opposed to that, the news and the current affairs programme services of MRT, since the independence of the state to present day, are generally under the influence of the ruling political structures, therefore the confidence of the public about their independence and impartiality continuously decreased, which affected the audience rating. In the *"Analysis of the Public Broadcasting in the Republic of Macedonia in the Context of the European Media Policy"*¹⁰⁷ it has been concluded that MRT since long ago is not recognizable by the news and current affairs programme. "Great number of experienced and professional journalists from MRT started working for private media, or work as freelance journalists in the framework of independent productions. Part of the professional staff that still work in MRT, cannot express their capabilities and knowledge, both due to the continuous lack of funding, and due to the chaotic manner of managing the enterprise and lack of vision on the part of the management structures suffering from continuous change in the past several years. Accordingly, one may say that nowadays MRT, still does not fulfil its obligation neither to be „forum for public debate“, nor it provides sufficient space for free expression of ideas, opinions and criticism," it is concluded in the *Analysis*.

The European Commission in its reports also pointed to the problem of a lack of independent editorial policy in MRT. The last Report from 2011, underlines that PSB does not currently fulfil its statutory role to provide a diversity of informative, educational and entertaining programmes. With regards to the reporting and event coverage, partiality tendencies towards the ruling parties are noticed in the news, which was the case during the pre-election campaign for the Parliamentary elections 2011.¹⁰⁸ Also in the publication "Political Pluralism in the News of the Public Service Broadcasting", published by the Broadcasting Council in 2010, it is concluded that both with regards to time and the direct addresses in the news in Macedonian and Albanian language, during the examination period, the parties from the ruling majority dominated compared to the reports for the opposition parties.

107 Group of authors (2010) „*Analysis of the Public Broadcasting in RM in the Context of the European Media Policy*“. Skopje: MIM and School of Journalism and Public Relations. Available on: http://mim.org.mk/attachments/291_izvestaj%20Analiza%20na%20javen%20servis.pdf. Pg. 10

108 MIM, Broadcasting Council and Preliminary OSCE/ODIHR Report

With the amendments to the Law on Broadcasting Activity in 2010 the possibility for declaring bankruptcy or liquidation of the Public Service Broadcaster MRT (which was made possible with the amendments from 2008), it was determined that the Public Revenue Office will take over the responsibilities regarding the calculation, determination and collection of the broadcasting tax. Moreover, the amount of the monthly broadcasting tax was decreased in order to improve the collection. This led to an increase in the rate of tax collection. All these amendments are important for providing sustainable financing for the Public Service Broadcaster and the Broadcasting Council, which is still not fully accomplished. In the past years, the European Commission in its reports constantly warned that PSB has no financial independence, since the collection of the tax was close to zero, and that influenced the editorial independence as well.¹⁰⁹ Furthermore, in the Law it is determined that MRT shall be funded from the broadcasting fee, as well as from advertisements, sponsorships, donations, sales of programme items and services and from funds secured from the budget of the Republic of Macedonia for the current year. The donations shall not influence or disturb the editorial independence of MRT (Article 116). By the end of 2011 the Parliament adopted the proposition of the Government to amend the Law on Broadcasting Activity, for a further increase of the amount of the broadcasting tax. (See also part II.E.2.11.)

Because of the long-lasting financial crisis, which was a result of the non-efficient collection of the broadcasting tax, MRT falls behind in the technical and technological development in comparison to the other commercial electronic media. This has been concluded in the Strategy for Development of the Broadcasting Activity 2007-2012 prepared by the Broadcasting Council. Namely, in 2006 MRT had the lowest number of investments from all the channels on a state level in the period of few years. However, as part of the upcoming process of digitization, in November 2011, the Macedonian Television was in a phase of procurement of a new digital system for recording, editing and broadcasting of the programme on the First and Second programme service. It was expected that MRT would receive new HD equipment in 2012 for the First and Second programme service, while, the programme of the Macedonian Radio is already recorded, edited and broadcasted through digital technology.¹¹⁰

The total revenue of MRT for 2010 amounted to 731.091.357 денари,¹¹¹ which is a twofold increase in comparison to 2009 when it amounted to 349 million denars. In 2004 the total revenue of MRT amounted to 524 million denars, in 2005 – 418 million denars, in 2006 – 428 million denars, in 2007 – 473 million denars and in 2008 – 612 million denars.

3.4 The operations of public service broadcasters do not experience discrimination in any field

Indicators:

- Satellite and cable carriers do not refuse to carry PSB stations or content
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With the provisions from the Law on Broadcasting Activity the programmes of MRT are made available and it is determined that: “MRT shall broadcast programme services on the territory of the entire country” (Article 117), the broadcasting of its services is guaranteed via the network of Public

¹⁰⁹ European Commission. Progress Reports on the Republic of Macedonia (2006-2010). Available on: the website of the Secretariat for European Affairs: <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControlID=IzvestaiEU.ascx>

¹¹⁰ Source: Eftim Gashtov, Executive Director of MRT (2011)

¹¹¹ Transcripts of a session of the Parliament of the Republic of Macedonia. Source: www.sobranie.mk



Enterrize “Macedonian Broadcasting” (Article 118) and the obligation is determined for an obligatory distribution “must carry” of its services via all public communication networks (Article 110).

PSB is transmitted via digital terrestrial televisions via the operator Boom, on a cable and IP TV platform, while, in Macedonia there is no platform which delivers a satellite signal inside the country.

3.5 Independent and transparent system of governance

Indicators:

- The PSB is overseen by an independent governing body whose autonomy is legally guaranteed
 - Appointments to the governing body are open, transparent and free from direct government interference or control by any political or economic vested interests
 - The governing body ensures that the PSB fulfils its public service remit and protects its independence
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The Law on Broadcasting Activity from 2005 defines the bodies of MRT, however their competences are not clearly distinguished with regards to the division of the managerial and supervision function. Article 126 from the Law determines the bodies of MRT: Council of MRT, Management Board of MRT and Executive Director. However, it is not explicitly stated that the Council of MRT is a body responsible for supervision of the programme activities of MRT, even though that can be implicitly concluded from Article 133, paragraph 1, line 1 and 2 where its responsibilities are mentioned: “[...] takes care of the realization of the public interest in the programmes of MRT on the basis of the principles of editorial independence; determines the programme policy of MRT and supervises the implementation of programme principles [...]”.¹¹²

The “*Analysis of the Public Broadcasting in the Republic of Macedonia in the Context of the European Media Policy*,” published by MIM and the School of Journalism and Public Relations in 2010, determines that within the organization of the Public Service Broadcaster’s operation, clear distinction between the two levels of management should be made: establishment of general policy/long-termed decisions and daily current operations. Management boards or boards of directors (establishing business policy, budget approvals, appointment of executive directors, and etc) should be responsible for running the general policy. On the other hand, executive directors should be responsible for day-to-day management of the material and human resources, decision-making on programme realization, and similar.¹¹³ In order to avoid the political influence on the everyday work of the Public Service Broadcaster, the executive director is responsible only to the board of directors, which reports on its activities, to the legislative power. In this way, the board of directors is conceptualized as a kind of barrier between the executive directors and authorities.¹¹⁴

According to the *Analysis* the carrying out of responsibilities which are given to the three bodies of MRT shows that the distinction of the levels of governance is not made completely clear. „Some of the functions

¹¹² Group of authors (2010) „*Analysis of the Public Broadcasting in RM in the Context of the European Media Policy*“. Skopje: MIM and School of Journalism and Public Relations. Available on: http://mim.org.mk/attachments/291_izvestaj%20Analiza%20na%20javen%20servis.pdf. Pg. 15

¹¹³ Ibid. Pg. 15-16

¹¹⁴ Ibid. Pg. 16



regarding the running of general policy have been assigned to MRT Council (which is supposed to do the supervision), and the other to the Management Board. On the other hand, it seems that the Executive Director does not have sufficient authorizations to run MRT current operations. All this creates confusion and inefficiency in the functioning of these bodies, which was actually proved in practice in the past four years.”¹¹⁵

Regarding the issue of supervision in the Public Service Broadcasting from the aspect of fulfillment of its functions it can be assigned to bodies, which have been established within the Public Service Broadcaster, or to independent expertise bodies. In some countries, regulatory bodies authorized to supervise overall broadcasting activity, are also authorized to supervise programmes of the Public Service Broadcaster. In such cases, the Public Service Broadcaster is obligated to be accountable for its operations to those bodies. In this way, they serve as a kind of barrier from the political interference of the Government in work of the Public Service Broadcaster. The Law on Broadcasting Activity contains certain contradictions in this respect. On one hand, MRT Council should conduct such supervision, and on the other, it should be conducted by the Broadcasting Council. Such dualism in supervision creates confusion regarding implementation of the Law in terms of being unclear which are the competences of the MRT Council and which are the competences of the Broadcasting Council for supervising the programmes. Therefore, the analysis of Public Service Broadcaster’s functions regarding the programme is a complex issue which implies serious technical and programme capacities, and accordingly it is reasonable that this authorization should be assigned to an independent regulatory body.¹¹⁶

The Council of MRT shall consist of 23 members which are appointed by the Assembly of the Republic of Macedonia upon proposal of the following authorized nominators: “St. Cyril and Methodius” University – Skopje, (proposes candidates for two members); State University of Tetovo – “Tetovo” (two members); “St. Clement of Ohrid” University – Bitola, (one member); University of South Eastern Europe – Tetovo (one member); National Institution – Albanian Theatre, (one member); National Institution – Turkish Theatre, (one member); Association of Units of Local Self-Government (one member); Olympic Committee of the Republic of Macedonia proposes a candidate for one member; Majority Journalists’ Association (two members); Chamber of Commerce of the Republic of Macedonia proposes a candidates for one member; Macedonian Association for Information Technology (MASIT) (one member); Music Academy (one member); Majority Association of Authors of Musical Works and Composers (one member); Faculty of Dramatic Arts (one member); Community of Disabled Persons Associations in Macedonia (one member) and Committee on Elections and Appointments of the Assembly of the Republic of Macedonia (five members).

MRT shall be managed by the Management Board which consists of seven members which shall be elected by the Council of MRT on the basis of a previously implemented public announcement procedure (Article 134).

In the context of whether the appointment within these bodies is free of direct involvement of the Government or different political or economic interests, we can highlight the last case with the collective dismissal of the Management board of the public service MRT in August 2011. On the initiative of the Council of MRT, the term of office collectively ended for all the members of the Management Board of the Public Enterprise MRT. Furthermore, according to the period when they were elected, the term of office truly ended only for two members, and the other five were on that position for a different period – some six to seven months,

¹¹⁵ Group of authors (2010) „*Analysis of the Public Broadcasting in RM in the Context of the European Media Policy*“. Skopje: MIM and School of Journalism and Public Relations. Pg. 16

¹¹⁶ Ibid. Pg. 16-17



some a year and a half etc. According to the Law on Broadcasting Activity “the members of the Management board shall be elected for a term of office of five years, with right to one re-election” (Article 134).

Article 137, determines the cases in which a term of office of a member of the Management Board of MRT is terminated before the date of expiry: in case of occurrence of reasons preventing the election of a person as a member of the Council of MRT, provided for in Article 136 of the Law on Broadcasting Activity; if the member of the board is absent from the sessions of the Management Board for more than three months; and if the member submits a resignation. The termination of the term of office of the members of the Management Board, was not in accordance with this Article of the Law.

Additionally, it should be highlighted that the Law in no way regulates that the Management Board of the PE MRT is elected as a collective body, neither is it mentioned that the term of office is terminated considering it as a collective body. Moreover, the provision of Article 137 is written in singular and is regarding the term of office of a member of the Management Board of MRT. The president of the Council of MRT denied in the media that this was an unlawful dismissal, stating that the Management Board is a collective body. He claimed that the Council asked for an interpretation from the authorized parliamentary commission, but that the commission said that the Law is clear and that there is no need for an authentic interpretation. For those reasons the legal department of MRT was asked for an opinion.¹¹⁷

The supervision of the programme of MRT, is provided by the Broadcasting Council, as a independent regulatory body. Generally the role of the Broadcasting Council as part of its competences is to provide freedom and pluralism of expression, existence of diverse, independent and autonomous media, economic and technological development of the profession and protection of the interests of the citizens in the broadcasting profession.

In practice, the bodies of MRT (as well as the content of the news) and the Broadcasting Council, in the past years are under the influence of the political elites, which was underlined in the reports of the European Commission from 2006 to 2010, the report from the “*Media Sustainability Index*” of IREX for the year 2011¹¹⁸ as well as the domestic expert public.

3.6 PSBs engage with the public and the CSOs

Indicators:

- The PSB has a proven commitment to consultation and engagement with the public and CSOs, including a complaints system
 - Public involvement in appointments to the governing body
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The connection between the Public Service Broadcaster, the public and the CSOs sector is regulated with the Law on Broadcasting Activity. The intention is that the candidates for members of the Council of MRT shall be represented by diverse groups in the society, including the CSOs (Article 127).

According to the Law on Broadcasting Activity, the Broadcasting Council is authorized to review the requests and petitions submitted by citizens regarding the radio and television programmes and

¹¹⁷ „Тивок ѝуч во МРТ или законска смена на Ујравниој одбор?“ (*A silent putsch in MRT or a legal change of the Board of Governors?*), *Utrinski vesnik*, 9 August 2011. Available on: <http://www.utrinski.com.mk/default.asp?ItemID=BC0E667E6D393744A5789140605CAD44>

¹¹⁸ IREX (2011) “*Media Sustainability Index*”. Available on: http://www.irex.org/sites/default/files/EE_MSI_2011_Macedonia.pdf



programme services retransmitted through the public communication networks, as well as the work of the broadcasters, and informs the public about the measures it has taken, on regular basis (Article 37). This provision is regarding the Public Service Broadcaster, as well. However, there is no specific system for communication with the public, such as an “ombudsman” within MRT. Therefore one of the recommendations of the „*Analysis of the Public Broadcasting in a context of the European media policy*“, prepared by MIM, points out that MRT should introduce a system for regular communication with the public and the citizens: “In line with the example of some European public service broadcasters, it is recommended to introduce an „ombudsman“, or some other body that takes care of responding to complaints and reactions from the audience.”

C. MEDIA SELF-REGULATION

3.7 Print and broadcast media have effective mechanisms of self-regulation

Indicators:

- Media organizations have clear codes of ethics, and sound editorial guidelines
 - Codes are actively disseminated to journalists and regularly debated and reviewed
 - At the industry level, systems exist for hearing public complaints about alleged violations of ethical standards
 - Self-regulatory bodies and news ombudsmen are independent of government and commercial interests
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The Macedonian Institute for Media and the Association of Journalists of Macedonia, in collaboration with IREX/Promedia (a media project from USAID) and the International Federation of Journalists (IFJ), in 2001 introduced the Code of Ethics for journalists in Macedonia, which promotes the role of the journalists in building the democracy and the civil society, underlining that the journalists will defend human rights, dignity and freedom, will respect the pluralism of ideas and beliefs, will contribute to the strengthening of the legal state and in the control of the government and other subjects form the public life. The Code has not been revised ever since it was introduced.

The Council of Honor of AJM is the only self-regulatory body in Macedonia, existing since 2001, which looks after the respect of the principles of the Code. Its primary task is to look after and to promote the ethical principles, criteria and standards of professional and responsible journalism (stipulated in the Code of Ethics of Macedonia), to examine cases and initiate procedures which concern the members of AJM, to independently and publicly react and express opinions/judgments in case of breach of the principles and provisions of the Code of the journalists of Macedonia, to independently initiate or propose a discussion in the other bodies of AJM when the principles and provisions of the Code of the journalists are breached in the process of informing, to introduce initiatives to the Management Board of AJM for amendments to the legal provisions or bylaws which inhibit or breach the principles and provisions of the Code of the journalists of Macedonia.

According to the Statute of AJM, the Council of Honor consists of 7 members, which are elected by the Assembly of AJM. In the period from 2007 until the beginning of 2010, the Council observed and



solved more than 70 cases. Part of them are a result of petitions, and for the other the Council reacted by its own initiative. For many cases, the Council has published an announcement which was delivered to all media and put on the website of AJM. However, some cases which were solved by mediation are not published. Over 40 cases are answers to submitted petitions, which, shows that there is a need for an instance which will arbitrate in cases when there is a doubt that a journalist has misused his/her position.

At the beginning of July 2011, the Council of Honor gave a collective resignation, because "It does not have at its disposal the needed tools so that its recommendations can achieve the desired effect. The collective resignation of the members of the Council of Honor is also a sign of protest for the situation of the Macedonian journalism, which became a complete hostage of the interests of the media owners and of the other centers of power, mainly the political parties, instead of serving the public and the truth." According to the Statute, if a member gives a resignation, than the next one who is nominated and who receives most votes from the Parliament receives the function. In October 2011, the new Council of Honor was formed.

Regarding the existence of a code of ethics on the editorship level, we can only mention the attempt of "Media Print Macedonia", whose leadership proposed in 2010 that those working in publishing and editorship in the WAZ Media Group – *Dnevnik*, *Utrinski Vesnik* and *Vest* – adopt a Code of Conduct, and that the editors adopt Ethical Principles of Reporting. The Ethical Code and Ethical Principles were prepared in accordance with the Code of Conduct adopted by the WAZ Media Group in May 2007 and with the Principles for guaranteeing editorial freedom, signed in July 2003 by WAZ and OSCE. To ensure adherence to the Code of Conduct and the Ethical principles, an Ombudsman was appointed, as well as a three-member council. The editor-in-chief of *Westfalenpost* from Hagen and chairman of the Ombudsman council for the German Code of Conduct of Germany was appointed as Ombudsman.¹¹⁹ The Publishing Council, composed of experts from Macedonia, was abolished in 2011, because according to WAZ, the Ombudsman took over its role.

The Public Service Broadcaster MRT also has a self-regulatory Code of ethics introduced in 2003, under the name Declaration for professional and ethical principles in the programme.¹²⁰ According to this document "the information presented by the broadcaster must be impartial, while the facts and opinions presented in the programmes must be balanced and ethically appropriate". It is also stated in the Declaration that the information must be precisely and correctly cited. According to the panelists participating in the "Media Sustainability Index" of IREX for 2011, the practice of the Code in the everyday work of MRT was not noticed.¹²¹

The Council of MRT could also be mentioned as a self-regulatory body, which in its scope of work has certain competences of a self-regulatory nature, for example, it determines the programme policy and supervises the implementation of the programme principles. However, it is basically defined as an organ which performs supervisory and managerial functions in the public service and it does not poses the characteristics of a real self-regulatory body.

119 „BAЦ усвојува Кодекс на однесување и етички начела“ (*WAZ adopts a Code of Conduct and Ethics Principles*), *Utrinski vesnik*, 17 March 2010. Available on: <http://www.utrinski.com.mk/?ltemID=C553B8069F506449A09F19FE78FDF24F>

120 Declaration on professional and ethical principles in programmes (2003) (internal document of MRT, available in MRT's archives) in: Open Society Institute (2008) *Television across Europe*. Budapest. Available on: <http://www.soros.org.mk/dokumenti/Mac-Media-Ful-MAK-1029-2.pdf>

121 IREX (2011) "Media Sustainability Index". Pg.73. Available on: http://www.irex.org/sites/default/files/EE_MSI_2011_Macedonia.pdf

3.8 Media displays culture of self-regulation

Indicators:

- Independent journalist associations exist and disseminate good practice
 - Media organizations are responsive to their audience e.g. channels for public complaints, right of reply
 - Self-regulatory bodies engage with CSOs and wider public and have socially diverse membership
 - Journalists or media organizations do not routinely practice self-censorship
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The Association of Journalist of Macedonia is an independent association which represents the majority of journalists in Macedonia. The Council of Honor as a body of AJM has the duty to protect and to implement the principles of the Code of Ethics of the journalists in practice. However, during 2010 AJM initiated the formation of a Media Ethics Council – an independent self-regulatory body which would take care for the respect of the ethical and professional standards in the content published in the electronic, written and online informative media in Macedonia. Its role would be to protect the rights of the individuals in the media content, at the same time taking into account the freedom of expression in the media. The Council would be a tripartite body composed of media representatives, editors and journalists, as well as representatives of the civil society in Macedonia. This body has still not been formed, and AJM announced that the activities in this direction would start in the last quarter of 2011.

The analysis carried out by MIM and SJPR, *“Analysis of the issue of self-regulation in the media in Macedonia”*¹²² underlines that the key problems the Council of Honor is faced with are that the journalists are not sufficiently informed about what self-regulation really means. According to this analysis part of the journalists understood self-regulation as a mechanism which needs to protect their trade unionist rights, and additionally the journalists and the media were not ready for self-criticism, in other words the media seldom admitted to their mistakes. According to the authors, the evaluation of the Council of Honor is published by the media only if it is about a competing medium or if the motive is to dispute and criticize the evaluation. However, some positive examples were noted, when the medium publicly admitted to the mistake (*Shpic, Dnevnik*) or when a journalist confirmed that “the Council was right”. Part of the journalists have a strange belief that the Code of Ethics and the rules of the profession do not apply to them only because they are not members of AJM. In other words, that means that every journalists who is not a member of a professional association, has the right not to respect the rules of the profession, and no one is allowed to react on that. In the analysis a concern is expressed that this distorted understanding of the professional standards and the journalist’s ethics as “a right to choose,” is a trend which has a tendency to become deeply rooted in the journalist community.

Furthermore, it should be taken into consideration that the AJM’s Code does not bind the journalists who are not part of this Association, however, if they become members of, or found other journalists associations, they should also have their own Code of Ethics.

The analysis shows that in practice there is a readiness for self-regulation among the Macedonian journalists, however it is more declarative, than real. “In conditions when part of the journalist work with

¹²² Group of authors (2010), *“Analysis of the issue of self-regulation in the media in Macedonia”*. Skopje: MIM and School of Journalism and Public Relations. Pg.11. Available on: http://mim.org.mk/attachments/292_osvrt%20kon%20samoregulacija.pdf.



unregulated economic and social rights, they refuse to discuss professional standards, giving the argument that it is impossible to have professional standards in conditions when the existential status is threatened."¹²³

D. REQUIREMENTS FOR FAIRNESS AND IMPARTIALITY

3.9 Effective broadcasting code setting out requirements for fairness and impartiality

Indicators:

- Broadcasting code sets out requirements of both public broadcasters and private broadcasters (e.g. as a condition of retaining private broadcasting license)
 - Regulation to ensure respect for the principles of fairness, balance and impartiality during elections e.g. allocation of air time to candidates, reporting of opinion polls, quotas for political advertising, party election broadcasts, prevention of undue coverage to public authorities as prescribed in the national electoral code
 - Code does not compromise the editorial independence of the media e.g. by imposing prior system of censorship
 - Compliance with international standards
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Regarding fair and impartial reporting, the Law on Broadcasting activity in the part about the programme standards generally about all electronic media determines that the radio and television programmes shall be based on the principle of "objective and unbiased presentation of events, with equal treatment of diverse views and opinions, enabling the free creation of a public opinion on individual events and issues" (Article 68). During elections, the Law binds the Public Service Broadcaster and the commercial broadcasting companies that decided to cover the election, to do so in a fair, balanced and impartial manner in their total programme (Article 80).

During the election campaign, the electronic media are obliged to provide equal conditions for access to all forms of media representation to the organizers of the campaign, in accordance with their rules and technical conditions and possibilities. According to the Law, the Public Service Broadcaster is obliged to provide free of charge and balanced time, in the course of the election campaign, for broadcasting of programmes of the political parties, coalitions, and candidates that have submitted lists of candidates for general, local, and presidential elections, in accordance with the rules for media presentation of the political parties, coalitions, independent candidates and their programmes (Article 121). The commercial media, if they decide to cover the elections, shall respect the obligations of the Law on Broadcasting Activity, the Electoral Code and the rulebooks of the Broadcasting Council.

The Electoral Code, as well, stipulates how much time for advertising on a real hour broadcasted programme shall be broadcasted by the electronic media during the campaign, it obliges them to establish price lists for paid political advertising, it determines that PSB shall not broadcast paid political advertising, but is obliged to broadcast free of charge political advertising, it determines the obligations

¹²³ Group of authors (2010) „*Analysis of the issue of self-regulation in the media in Macedonia*“. Skopje: MIM and School of Journalism and Public Relations. Pg.12

of PSB to inform the citizen on the manner and techniques of voting (Electoral Code, Official Gazette Number 54/2011, Articles 75, 75a, 76, 76a). The Electoral Code also regulates the publishing of the results of the opinion polls (Article 77).

The Public Service Broadcaster and the commercial media which cover the elections, are obliged to create their own rules based on the principles of independence, autonomy and editorial independence, as well as the responsibility of media coverage of the elections. They shall also announce the rules in their programmes.

The Broadcasting Council also passed two rulebooks for equal access to media presentation during the election campaign – one for the period from the announcement of the election to the official start of the campaign, and the other only for the period during the campaign. The *“Rulebook for equal access to media presentation during the election campaign”*¹²⁴ obliges the Public Service Broadcaster, and other commercial broadcasting companies which decided to cover the elections, to do so in a fair, balanced and impartial manner in their total programme (Article 3), to provide equal conditions for access to all forms of election media representation of the organizers of the campaign (Article 4), to respect the principle of balance, and to provide all organizers of the campaign with equal media access (Article 5). The *Rulebook* stipulates that the reporting about the regular activities of the public authorities, in the programmes of the broadcasters, in the election campaign period, shall not be in the function of election media presentation of any political subject, and it also regulates the equal distribution of time among the candidates, the publishing of the results of the research about public opinion and political advertising.¹²⁵ On the other hand, the *Rulebook* does not tackle the issue of editorial policy, and the independence and autonomy of the broadcasters (Article 1). There are no explicit provisions about the guaranteeing of the editorial policy in the Law on Broadcasting Activity¹²⁶, however they are derived from some Articles of the Law. (Article 68, Article 80).

According to the Recommendation No. P(99) 15 of the Council of Europe, adopted by the Committee of Ministers for the member states of the Council of Europe on 9 September 1999¹²⁷ the media coverage of election campaigns from the electronic media, both public and commercial, shall be fair, balanced and impartial. That means that an equal treatment shall be given to all involved parties in the election process, not so much in the sense of giving them equal time, but in the sense of allowing all political views and parties to be heard. During the Parliamentary elections in 2011, the TV station A1, openly declared that on these elections it will support the opposition, in other words the non-ruling parties. In the Report of the Council from the monitoring of the media coverage of the early election of MPs of the Parliament of the Republic of Macedonia in 2011, it is stated that A1 TV station put itself on the side of the opposition and against the government.

124 Broadcasting Council (2011) „*Rulebook for equal access to media presentation during the election campaign.*“ Skopje: BC. Available on: http://www.srd.org.mk/images/stories/IZBORI_2011/ZA_SLUZBEN_VESNIK_-_Pravilnik_z_a_ramnopraven_pristap_z_a_vreme_na_kampanja.pdf

125 Ibid.

126 For more information on editorial independence see part I.A.1.3.

127 Council of Europe, Committee of Ministers. Recommendation No. R (99) 15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns. Available on: http://www.medialaw.ru/laws/other_laws/european/e-rec99-15.htm

3.10 Effective enforcement of the broadcasting code

Indicators:

- Breaches of code investigated and proportionate sanctions applied
 - Proper system for dealing with public complaints
 - Regulation enforced with due regard to editorial freedom and independence
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According to the research conducted by the Broadcasting Council,¹²⁸ MIM¹²⁹ and of OSCE/ODIHR, most of the media in Macedonia during the Parliamentary elections 2011 were partial in the reporting and had an unbalanced approach, taking either overly favoring or criticizing stance for a certain political party. For example, MIM's research shows that from the total of 5 commercial television stations on a state level (A1, Sitel, Kanal 5, Telma and Alsat-M) and the two channels of the public service (MTV 1 and MTV2 in Albanian), only two TV-channels reported relatively impartially, in a balanced and fair way.

In the context of whether the media provided an equal treatment for all political parties, the telephone survey of the Institute for Democracy "Societas Civilis" conducted before the Parliamentary Elections in 2011, 61.7% of the respondents believed that all political parties did not have an equal treatment from the media in the conduct of their campaign, while, 23.8% answered affirmatively. Almost an equal percentage of the respondents (24.8 % and 24.1%) answered that the ruling parties were favored, in other words the larger parties, and only 4.4% answered that the opposition parties were favored.¹³⁰

After the Parliamentary elections in 2011, because of the breach of the Electoral Code, as well as the disregard of the rules determined in the „*Rulebook for conduct of the broadcasters before the begin of election campaign*“ and the „*Rulebook for equal access to media presentation during the election campaign*“, the Council noted 30 breaches of the Electoral Code and the bylaws, including: 4 breaches in the period before the begin of the election campaign and 26 breaches during the election campaign and the election silence.

Additionally, outside of the election period, the Broadcasting Council can proclaim measures against the electronic media because of breach of the provisions of the Law on Broadcasting Activity, of the permit for broadcasting activity and the bylaws passed by the Broadcasting Council, regarding the programme content. In the period from 1 January to 30 January 2011, the Broadcasting Council proclaimed 4 measures for breach of the Law on Broadcasting Activity, namely for electronic media which in more than one occasion did not fulfill the obligations stipulated by the Law and did not publish the date regarding their work for the previous year within the determined deadline, and did not submit to the Council a copy of the published content and a recording of the broadcasted content in a DVD format.¹³¹

According to the *Rulebook* of the Broadcasting Council for equal approach to media presentation during the election campaign, this body does not determine the editorial policy, the independence and autonomy of the electronic media.

128 Broadcasting Council (2011) „*Report of the monitoring of the media coverage of the early elections of MPs of the Parliament of the Republic of Macedonia in 2011*“. Skopje: BC. Available on: http://www.srd.org.mk/images/stories/26082011_lzvestaj_zalborite_vo_2011_WEB.pdf

129 Macedonian Institute for Media (2011) „*Final Report on the monitoring of the media during the early Parliamentary elections 2011*“. Skopje: MIM. Available on: http://mim.org.mk/attachments/338_FINALEN%20IZVESTAJ_MONITORING%20NA%20MEDIUMITE%20ZA%20IZBORITE%202011_FINAL_j.pdf

130 Website of MCMS. Available on: <http://mcms.org.mk/mk/za-nasata-rabota/istrazuvana-i-publikacii/istrazuvana/1080-izbornite-kampanji-na-politickite-partii.html>

131 Broadcasting Council (2011) „*Legal analysis of the results of initiated criminal procedures January-June 2011*“ Available on: http://www.srd.org.mk/images/stories/Pravna_analiza_na_rezultatite_od_povedenite_prekrsozni_postapki_januari-juni_2011.pdf

All legal and physical entities can submit complaints to the Broadcasting Council, which are recorded in a separate record book, and then distributed to the competent services. If needed, sometimes monitoring is conducted based on the received complaint. In 2010 the Council acted upon 26 requests for access to information of public character.

E. LEVELS OF PUBLIC TRUST AND CONFIDENCE IN THE MEDIA

3.11 The public displays high levels of trust and confidence in the media

Indicators:

- Perception that the media reports on issues of real concern to people
 - Satisfaction with the balance of local and national news and information
 - Perception that journalists and media organizations have integrity and are not corrupt
 - Perception that news reporting is fair and impartial
 - A high level of citizen participation in media as shown by: the level of participation of audiences in talk-back programmes, space devoted to readers' comments in newspapers, etc.
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According to the research Trust in Macedonia¹³² conducted by the Macedonian Center for International Cooperation in 2010, the level of trust in the Macedonian media in 2010 was 40.4%, which is 13% lower than in 2008, when 53.6% of the citizens expresses trust in the media, similarly as in the previous 2007 (52.6%).

The data from *"The research of the viewers by the Broadcasting Council in 2009"*, shows that the main reason for trust of the viewers in the news of the preferred TV stations were objectivity (28.8%), realistic, verified information (20.6%), while the criteria such as good journalists, impartiality and independence, comprehensive and complete news, good rating and timely news, were relevant for 5% of the respondents respectively.¹³³ Among the radios, the main reason for trust was objectivity (10.4%), and the format of entertainment radios, without a lot of politics was important for a lower number of respondents (4.7%). Realistic and verified information were a criteria for a greater number (3.8%) of the respondents, and the criteria such as timely news, good rating, informing about local and regional events, good journalists and impartiality had an influence on 2% of the respondents.

In total 42.7% of the respondents completely agree with the stance that "in the TV news it is very often speculated with unverified information", 35.2% partially agree, 11% partially disagree, 2.6% completely disagree, and 8.3% do not know.

The same survey from the Broadcasting Council shows that 40% of the respondents partially agree with the stance that "the TV news generally report objectively about the events", 26% completely agree, 20% partially disagree, and 10% completely disagree. Regarding the stance that the "politicians have a strong influence over the information in the TV news", 53% from the respondents completely agree, 30% partially agree, 7.8% partially disagree, 7.8% answered that they do not know.

¹³² Klekovski et al. (2010) Trust in Macedonia. Skopje: MCMS. Available on: <http://mcms.org.mk/images/stories/Docs/opsta-doverba-i-doverba-vo-instituciite-2011.pdf>

¹³³ Broadcasting Council (2009) „*The programme preferences of the TV and radio public*“. Skopje: BC. Available on: http://www.srd.org.mk/images/stories/publikacii/ispitivanje%20na%20publikata_2009.pdf



Regarding the stance that the “owners of the private TV-stations direct the news in their favor”, 56% from the respondents completely agreed, 27% partially, 6.4% partially agreed, 2.2% completely disagreed. The stance that “the government has no influence on the news of the MTV public broadcaster”, was completely supported by 15%, 18% partially agreed, 21% partially disagreed, and 30% of the respondents completely disagreed¹³⁴. The Broadcasting Council has not published a similar research on its web-site for 2010.

Furthermore, in a telephone survey of the Institute for Democracy “Societies Civilis” prepared for and conducted during the Parliamentary elections in 2011, on the question “Do you believe that the media generally objectively reports about the election campaign?”, 30.9% from the respondents said that there is not one medium which reports objectively, and 30.4% believed that a greater part of the media do not report objectively. Furthermore, 16.4 % believed that a greater part of the media report objectively, and 10.8% of the respondents said that all media report objectively.

Regarding the perceptions of the public on the issue whether the media report about questions of public interest, there are no concrete researches, however certain conclusions can be drawn from the research on certain aspects of the radio and TV reporting. In the research of the Broadcasting council about “*The programme preferences of the TV and radio public*” it is stated that the majority – 40% of the respondents – partially agree that the TV news are oversaturated with negative information, accidents and violence. On the other hand, the monitoring of the media which MIM conducted in the pre-election campaign for the Parliamentary elections 2011,¹³⁵ showed that there is a very low coverage of topics which are relevant for the citizens in their choice on the voting day (such as employment, decreasing poverty, development of the economy and the road infrastructure, connecting with the roads in the region (corridor 8 and 10), investments in the development of the energy potential, the development of small and medium sized companies, tourism etc.). From nearly 50 topics which were monitored, it was being reported to a decent extent about the fight against corruption (with a focus on the financing of the parties and the media), the international policy and EU integrations (mainly through the prism of visa liberation and the name dispute), generally about the improvement of the economy and the infrastructure (mainly thorough the prism of investments, such as the project “Skopje 2014”). There was a small quantity and low quality of information about the regional cooperation, reforms in the public sector and establishing an efficient administration, finalizing the process of decentralization, the rule of law, ways of reforming the judiciary, as well as for other topics which influence the social cohesion, the prosperity of the society and the development of its human potential, education, sustainable development, social inclusiveness and social protection, as well as other possibilities.

The same research showed that the reports during the pre-election campaign and the political happenings on the domestic scene, were dominated by content about the happenings in the capital and the First election unit. Therefore the national media did not allow the citizens from other parts of the country to be better informed about the other election units. Even though the main focus of this research were the Parliamentary elections, it can be said that these are general trends which are present outside of the campaign period.

¹³⁴ Broadcasting Council (2009) „*The programme preferences of the TV and radio public*“. Skopje: BC.

¹³⁵ Macedonian Institute for Media (2011) „*Final Report on the monitoring of the media during the early Parliamentary elections 2011*.“ Skopje: MIM. Available on: http://www.mim.org.mk/attachments/338_FINALEN%20IZVESTAJ_MONITORING%20ONA%20MEDIUMITE%20ZA%20IZBORITE%202011_FINAL_j.pdf

From the content offered by the media it can be concluded that there is a lack of topics about the region, Europe and the world, and that the news are locally oriented. MRT also canceled its externally-informative programme, which additionally reduced the information offer on EU accession processes. On the other hand, we could also underline the fact that neither MRT, nor the other national media have a network of reporters from other countries. Only a very small number of media have few reporters from abroad.

There are no thorough and regular researches about the corruptness of the journalists and the media, but there are occasional projects which examine the corruptness among journalists. The Macedonian Institute for Media, in 2005 took part in the regional project "Ethics and journalism in Southeast Europe" which researched the relation between the journalists and money. In the publication with the same title¹³⁶ published as a result of the research, the following is stated "[...] There is no journalist in Macedonia who has not received a small, or at least a symbolic gift". Some of the respondents in this research stated that they have went to "numerous paid working trips with government delegations, other that they have been to business lunches organized by government officials, or to various trips organized by nongovernmental organizations," but that they did not perceive that as an attempt for corruption, but as form of briefing. According to the respondents "the journalists are honest, and only few can "boast about" larger gifts, such as jeeps, apartments, money and credits with favorable payment conditions etc."

Regardless of the fact that there is no regular research, accusations from different political and media groups for alleged corruptness of the journalists and the media occasionally appear in the media. For that reason the Association of Journalists of Macedonia in 2007 opened a free telephone line for reporting possible corruption among the journalists, but it was closed after the end of the project through which it was financed. Even though this initiative was positively met by the media community and the broader public, the number of reports was very low – only around ten calls, out of which only one was relevant. AJM also made an Annex to the Code of Ethics of the journalist which defines what is corruptive behavior among the journalists and which principles shall be followed by the journalists in order to eliminate corruption in their profession.

Even the former president Brako Crvenkovski, before leaving his post in December 2008, expressed doubts that there is corruption in the media.¹³⁷ The State commission for prevention of corruption showed interest in the president's statement, however there is no information about the outcome.

The media itself have expressed their doubts about corruption among journalists. Such was the case "Factory" – journalists paid to work for the government, published in the newspaper *Vreme* in 2006. At that time the newspaper (not published any more) claimed that a group of journalists from a number of editorial boards, through the marketing agency "Factory", for a 300-400 Euro fee, worked for the government, prepared the speeches of the prime minister at that time, as well as the press conferences, briefings, and statements of some ministers of the Government at that time. Even though the findings of the newspaper were denounced by all the journalist who were mentioned in the affair, the newspaper claimed that it has strong evidence for the truth of the claims, and the editors in chief of the 12 national media which took part in the regular survey "Monthly Corruption Barometer" proclaimed it as the most shady case for February 2006.¹³⁸

136 Group of authors (2005) Ethics and journalism in South East Europe. Skopje: MIM

137 „На ѓроверка обвинувањата за корупција во медиумите.“ (On check allegations on corruption in the media) *Utrinski vesnik*, 23 December 2008. Available on: <http://www.utrinski.com.mk/default.asp?ItemID=BA2B55A4FF38C040969C95BED471A5BC>

138 „Обвинетите новинари џвергај дека не се ѓозон на ‘Фабрика’“ (Accused journalists declare that they are not the propulsion of 'Factory') *Dnevnik*, 20 February 2006. Available on: <http://star.dnevnik.com.mk/?pBroj=2992&stID=73731>

It should be also emphasized that there are cases when the companies “buy loyalty” from the Macedonian media, by concluding yearly contracts for which the media have no obligations, so the companies “buy” their protection in this way. Therein lies the answer why it is not insisted on solving some social problems. With this not only the spectrum of reported topics is restricted, but the freedom of expression as well. The editors and the journalists become a part of the chain of self-censorship, and the new journalist enter the profession with a “self-censorship spirit”, so they do not write about current and disputed topics, but about those which appeal to the editors or which will not endanger the business and/or political interests of the owners. The frequent transfers of entire groups of journalists from one media to another has also proven not to contribute to the strengthening of the freedom of expression. In a similar way the journalist’s freedom is endangered by the appearance of “journalists in an envelope” and the corruption which was very often detected by AJM. However, the Code is not sufficient for efficient solution of such and similar deviant matters.

On the other hand, according to journalists and media experts (stated on the meeting in Mavrovo in October 2011), the government’s spending of money from the budget for campaigns and commercials is used as a means for corruption of the media. The following arguments were stated in this context: the lack of clear criteria for spending budget means for public campaigns and announcements, no transparency in the work of the advertising agencies and their great influence on the media content, as well as the selective advertising, according to nonmarket criteria.

3.12 Media organizations are responsive to public perceptions of their work

Indicators:

- Media organisations make efforts to know more about their audience and the perceptions of the quality and the cultural diversity of their programmes and their news
 - Media organisations offer channels for audience engagement – phone-ins, debates, citizen reporting
 - Media organisations establish internal audit mechanisms to guarantee transparency and accountability
 - Community-based mechanisms for evaluating community media
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The research on the perceptions of the audience about the quality and the diversity of the media content, are very rare in Macedonia. So far only segments from one such research have been published by the Broadcasting Council – “*Research on the public opinion for 2009*”.¹³⁹ The Broadcasting council has conducted one similar research in 2007, which served as the basis for the Strategy for development of the broadcasting activity 2007-2012. Some foreign media which have branch offices in Macedonia occasionally order research about the public perceptions, but those are most often for internal needs and are not published for the public.

In the past few years, the newspaper *Dnevnik* orders periodical research on the opinion of the audience which are conducted by a professional research agency, but mainly about current questions and topics, not about the quality and diversity of the content. The same newspaper announced that they

¹³⁹ Website of the Broadcasting Council. Available on: http://www.srd.org.mk/images/stories/publikacii/ispituvanje%20na%20publikata_2009.pdf

will soon conduct research on the opinion of the audience about the quality and diversity of the content both of the electronic and written issue. The newspaper *Nova Makedonija*, occasionally orders research on the opinion of the audience, but again about current affairs. The research agencies regularly conduct audience measurements, researching the rating, range and the viewership, which is usually used for determining the advertising policy.

MRT as a public service, is obliged to create and broadcast programmes of public interest, which reflect the social and cultural pluralism of the country, and which encompass informative, cultural, educational and entertainment programmes. In the process of creating and broadcasting the programme MRT is obliged to respect the professional principles and to provide an equal access to the different interests in the society, to strive for freedom and pluralism of the public opinion, and at the same time to research the audience, its beliefs and expectations. MRT had a department for research of the audience, which has been inactive for years. Regarding the diversity of the programmes, there are no specific data about any research of the perceptions and needs of the audience, however in the Strategy for development of the broadcasting activity 2007-2012 of the Broadcasting Council, it is recommended that MTV needs at least one more programme service, oriented predominantly towards culture and sport.¹⁴⁰ In this context, the Progress report for Macedonia in 2011 underlines that the public service does not fulfill its statutory role to offer informative, educational and entertainment programmes.

MRT has no mechanism for self-regulation in order to effectively include the reactions from the subscribers, even though it has such an obligation towards them because they are paying a broadcasting fee. The argument of the House is that on MRT's website the citizens "apart from the possibility to follow the programmes of the First and the Second programme service of MTV (news, movies, entertainment, cultural, documentary and educational programmes), can also give their opinions, suggestions, complaints and compliments, which will contribute to the improvement of the programme of the Macedonian Television."¹⁴¹ MRT is also obliged to publish a draft-programme on its web-site and to give its subscribers the chance to give their recommendations and remarks, as well as to organize a public debate about the programme. The absence of this practice is a step behind in comparison to the previous years, especially before 1990, when a public debate was organized every two months.

However, in different shows in the morning and afternoon programme every day of the week the citizens make phone-ins or are guests in the studio ("Good morning Macedonia", morning show which is broadcasted every day). MRT broadcasts a number of informative shows among which are the debate shows ("From our perspective", "No pardon", "Gate" etc.), in which the citizens directly take part in the programme, and are given the possibility to discuss on a certain topic, to ask the guests questions, and etc.¹⁴²

With regards to phone-ins, the commercial media on a national level, have at least one such show in their programmes ("Hallo Macedonia" on Kanal 5, "Eat Burek" on TV Nasha, "Black bumblebee, white bumblebee" on TV Sitel, "Here and now" on TV Alfa etc.) in which there is a debate on a certain current affairs topic, or the citizens are taking part as guests (most often in the morning programme). The citizens also take part in *vox populi* surveys which are not very common in the news of the national TV stations.

A smaller number of the influential local TV stations have contact shows with phone-ins from the

140 Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC. Pg. 63

141 Source: Eftim Gashtov, Executive Director of MRT (2011)

142 Ibid.

citizens (“Hallo, I want to say...” on TV Orbis from Bitola, “Open with the mayor” on TV Vis from Strimica and “Under a magnifying glass” on TV M from Ohrid), as well as guest in the studio during the morning and thematic shows (TV Tera from Bitola).

Regarding the radios on a state level in Macedonia, the more serious shows in which the citizen can take part and debate on relevant topics (in the studio or by phone-ins) are broadcasted on the Macedonian radio which is part of the Public Service Broadcaster. One of the more successful examples, among the commercial radios is the debate show “Stadium” which is broadcasted on the national radio Kanal 77, where the citizens can make phone-ins. There are a number of radios which have specialized shows which invite the citizens as their guests.

However, the shows in which the citizens take part, among the greater part of the TV stations, are neither in the prime time, nor are they sufficient in comparison to the total amount of programme offer. The debates with citizens in the show or with phone-ins were present on the programme of TV A1 and TV A2, most often after the breaking news, before the frequency of A1 TV station was taken away. On the web-site of TV A1, the citizens had the possibility to write comments under the texts.

When we talk about citizen journalism, there are not many examples of its support and affirmation. One of the few TV stations which made an attempt in this direction was TV Sitel which gave the viewers the possibility to deliver their own video materials to the TV station, however those contributions are rarely broadcasted.

Among the printed media, we can see the participation of the citizens through infrequent vox-populi surveys on specific topics or through the minimal number of letters from the citizens (a few a day in a newspaper). In the past years, through the redesign of the online issues of the newspapers, the citizens have the possibility to comment after the texts (*Utrinski Vesnik*). Some newspapers (for example *Dnevnik*) publish part of the comments in the printed issue the next day.

F. SAFETY OF JOURNALISTS

3.13 Journalists, associated media personnel and media organizations can practice their profession in safety

Indicators:

- Journalists and associated media personnel are not subject to threats, harassment or surveillance
 - Journalists, and associated media personnel are not physically attacked, unlawfully detained or killed as a result of pursuing their legitimate activities
 - Media organizations are not forced to close down as a result of pursuing their legitimate activities, or threatened with closure
 - Crimes against journalists are prosecuted and there is no climate of impunity
 - Media organizations have policies for protecting the health and safety of their staff
 - Measures of social protection are available to all staff, including temporary and freelance employees
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Attacks on journalists, threats, physical and economic blackmail are common, but it is rarely reported about them, and they are even more rarely institutionally processed. Two former officers from the unit "Alfi" beat up the cameraman from TV Alsat-M in September 2007, and the legal proceeding which was initiated was more traumatic for the victim than for the wrongdoers who received very light penalties from the Primary court. There is a registered case of public slapping of a journalist in the Macedonian parliament. The journalist never received a legal and moral satisfaction for the humiliation caused by the security of one member of the parliament, because the public prosecutor believed that there are no sufficient elements for a complaint. The journalists and the media personnel unofficially talk about other such cases, but those have not been officially reported. In 2011 a number of cases of physical attacks were reported which ended with no serious physical consequences for the journalists, but also with no legal proceeding. The Association of Journalist publicly reacts and condemns those incidents, but that is where it all ends. Because of the lack of institutional protection the journalists file criminal charges on their own which is an expensive procedure with an uncertain outcome. Very often the journalist – the victim is facing a local powerful politician or businessman and the odds for a legal satisfaction are not in his favor.

With regards to whether the media organizations have been forced to close down or were threatened to be closed down, as a result of their work, there have been examples and threats, but the most characteristic one is the example of the TV station A1, the first private TV station in Macedonia and one of the most influential – with the highest viewership in the country – which ceased broadcasting in August 2011. On 25 November 2010, the police entered the TV station with the explanation that the target is not A1, but other companies which are registered at the same address, and for which there was a doubt that they were evading taxes. While the journalists from the TV station during the all night long police intervention, from the open studio, reported about an intrusion in the TV station, the police did not report right away about the precise nature of the action. That created a situation of confusion, leaving the public with insufficient information whether it is a intrusion in the TV station or a legitimate police action. A1, which at that moment was oriented towards the opposition (this was publicly stated by the editor-in-chief before



the start of the pre-election campaign for the Parliamentary elections which were held on June 5th 2011) presented the case as a threat to the freedom of expression, while various institution informed the public about tax evasion amounting to millions. The owner of the TV station and the companies which were subject to investigation, Velija Ramkovski, together with 11 other employees, was held suspect for tax evasion and was taken into custody, and he is still held there (January 2012).

In august 2011 the TV station was pronounced bankrupt. The Macedonian Institute for Media reacted, and asked from the Broadcasting Council to use all the legal possibilities and to allow the TV station to keep its work permit, taking as a standpoint the principle for protection of the interests of the citizens in the broadcasting activity and the protection of the pluralism in the media sphere, which is its legal obligation. "The activity of the media is of public interest, because they contribute to the democratic ambience and enrich the diversity of beliefs in the public sphere. Closing down one national informative media can cause long-term damage to the freedom of expression and the media pluralism in the Republic of Macedonia. We believe that the license for broadcasting activity can not automatically be taken away because of a bankruptcy procedure. The possibilities from Article 3 from the Law on Bankruptcy need to be used, A1 shall reorganize itself, in order to sustain itself and to go on broadcasting its programme," it is said in the reaction of MIM. Soon after bankruptcy was proclaimed, the Agency for electronic communication took away the frequency of the TV station A1. MIM, AJM and the Trade union reacted that this is flagrant disrespect of the Law on Broadcasting Activity and the competences of the Broadcasting Council, which previously had not taken away A1's broadcasting license. Namely, the Broadcasting Council is the only body competent to administer the Law, and in accordance with Article 55 of the Law on Broadcasting Activity, the license for the use of frequencies, is issued by the Agency for Electronic Communication only on the basis of the Decision to allocate a license to pursue broadcasting activity. Therefore the Agency for Electronic Communication can not voluntarily act without a previous act from the Broadcasting Council.

Furthermore, it should be mentioned that the printed editions which were part of the media group connected to Velija Ramovski – *Vreme, Shpic, ****e re (Koha e re)*, also, ceased being published since June 2011, because the Public Revenue Office demanded 1 million Euros on the basis that the company "Plus production" which published these three newspapers had unpaid taxes.

The European Commission in the Progress Report on Macedonia for 2011 warned that the closure of these media decreases the media diversity. The Commission also made remarks that the investigation into the tax evasion, and the closing down of TVA1 and the newspapers which were critical towards the Government, which followed, have increased the concern for the proportionality and selectiveness of the procedures.¹⁴³

With regards to whether the media have internal policies for health and safety, it has to be emphasized that apart from the medical check-ups of the employees, the media have no other obligations towards them. In many cases no additional insurance payment was paid to the journalists who worked in high-risk regions, for example during the conflict in 2001.

There is no precise statistics, which refers to all media in the country, about how many journalists have fixed-term contracts and how many freelancers work in the media. The Broadcasting Council has

¹⁴³ European Commission. Progress Report on the Republic of Macedonia for 2011. Available on: <http://www.sep.gov.mk/Default.aspx?ContentID=36&ControlID=IzvestaiEU.aspx>

data about the fixed-term contracts and freelancers only in the broadcasting industry. The so called grey economy is also present in the media, and there is also a system of paying cash in hand in order to avoid paying taxes.

3.14 Media practice is not harmed by a climate of insecurity

Indicators:

- Journalists do not routinely self-censor because of fear of punishment, harassment or attack
 - Confidentiality of sources is protected in law and respected in practice
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The general impression is that the journalists are hostages of the high level of politicization and the party-influenced institutions and of the fact that part of the competent institutions play a greater role of disciplining the media, than protecting their effort to be the voice and the “advocate” of the public interest. The reports of the European Commission from the past years constantly warn about the presence of self-censorship among the journalists in Macedonia. In the report from 2009, the Commission expressed concern because of the political influences which lead to self-censorship and which restrict the freedom of expression. The high penalties for defamation and offence which were imposed in the past, were an additional cause for the practice of self-censorship (Reports of the European Commission from 2010 and 2011).

Macedonia is not regarded as a country with a disrupted security, however the fact that the media are not economically free, and the journalists face threats on their safety, makes their work extremely complex. It can be said that the journalist very often work under blackmail and threats for losing their job or threats of physical attacks. The fact that in Macedonia the investigative articles, detecting corruption or any kind of poor governance are rare and with a decreasing trend, supports this argument. Fearing to lose their economic and physical stability, the journalist do not fulfill their primary task – to be the conscience of the society and the safeguards of democracy.

RECOMMENDATIONS:

1) The Government and the Parliament should permanently take care for promoting the public mission of MRT as a public service broadcaster, in accordance with the standards of the European Broadcasting Union. The competent state institutions should provide all the necessary mechanisms and measures for continuous functioning of MRT, especially in terms of collecting the broadcasting fee. Application of the recommendation of the European Broadcasting Union and re-examination of the possibility for quarterly harmonizing the amount of the fee, based on the actual needs of MRT. If implausible, finding a way for compensating for lacking funds, but from stable and independent sources (independent budget) and by means of implementing a transparent procedure.

2) Amendments to the legislation in the direction of explicitly guaranteeing institutional autonomy and editorial independence of MRT and precisely defining the competences of its bodies. The legislation should also define the minimum principles of internal organization and operation of MRT, with the purpose to annually plan a clear production - technological and financial framework, and the editorial structure to be socially recognizable and accepted. So as to be a modern media corporation in the new digitally competitive surroundings, MRT has to have a clearly defined organizational structure in all three segments: programme, technical facilities and production. A change and clear distinction of competences, as well as of the governance structure of the Public Service Broadcaster is necessary, because at the moment there are three bodies which make the management process complicated, inefficient and socially irresponsible.

3) Ensuring independence of MRT's bodies from political or economic centers of power, as well as raising the awareness and responsibility of all the bodies or holders of editorial responsibility that the editorial independence of the Public Service Broadcaster guaranteed by law should be also factually respected in practice. In MRT's bodies, persons with undisputed personal and social integrity should be selected, as well as with professional experience, knowledge and reputation in the public.

4) MRT should establish a system of regular communication with all the segments of its audience, the public and the society, and following the example of some European public service broadcasters, to introduce an "ombudsman" or another body that will deal with replying to complaints and reactions of listeners and viewers.

5) In the annual planning of production and broadcasting programmes, MRT as a public service broadcaster should always start from realistically expressed needs of diverse society groups and ensure diversity of programmes. Thereby, the principal goal should be, according to the realistically available funds, to also offer the largest possible volume of high quality programmes of all genres, produced according to the highest editorial and production standards.

6) It is indispensable to re-design the programme concept of MRT's services, so as to ensure representation of diverse programmes intended for all parts of the audience and fulfillment of its legal functions of a public service broadcaster. MRT cannot fully fulfill its functions of a public service broadcaster until its second programme service in Macedonian is returned to it. This should be settled urgently along with the digitization of its programmes.

7) Own/original production should make the largest part of MRT's programmes. It is necessary

for the Public Service Broadcaster to develop production of programmes which are missing in Macedonia and which are not an obligation and are not offered by commercial media, and particularly: documentaries, TV movies and series on contemporary social topics, genre-wise diverse children and youth programme, educational, music, entertaining programme, specialized programmes (for the village, agriculture and rural development), for adult audience, etc. By amending the broadcasting legislation, the obligations of commercial broadcasters to broadcast a mandatory volume of music and original domestic television production should also be increased. As a public interest, to determine the obligation to avoid broadcasting non-quality programmes, and programmes promoting violence, injuring the human dignity and integrity ("reality TV") and other kinds of illegal commercialization, at the expense of wider social interests. .

8) Preparation of a strategic document, determining the social significance of the third, non-profit media sector and its role as a type of public service broadcaster on local level, and thereby analyzing and elaborating all the problems which are an obstacle for its development (financing, lack of frequencies, forms of support, etc.)

9) Finding stable sources of financing for the non-profit sector by means of special funds from the budgets of the state or the local community, or by means of singling out part of the funds of collected fees for the broadcast license of both terrestrial and satellite commercial broadcasters, including cable television stations as public communication networks.

10) More active and socially more recognizable performance of tasks of the Council of Honor within the Association of Journalists of Macedonia in accordance with the Statute of AJM and the Rules of Procedure of the Council. Its members, the journalists or the media community should initiate changes and precisions to the Code of Ethics which will also bind the media owners.

11) Establishment of an individual self-regulatory three partite authority (as for instance, Council of Ethics in the Media), by which self-regulation will become inclusive, efficient and transparent and will enable to encompass as many media, representatives of media owners and of the public as possible.

12) The media should support regular research of audience opinions and stances, without instrumentalization, and exclusively pursuing the goal to ensure improvement of the quality and diversity of programmes, so as to meet the expectations, needs and requests of the audience.

13) Non-governmental organizations should initiate research in the media sphere with the aim of determining the conditions, problems and directions for further promotion of the media landscape.

14) Academic institutions should initiate research in the media sphere with the aim of contributing to the creation of functional relations between the media, the industry and the academic community.

15) MRT, as a public service broadcaster, should determine its annual or periodical production and broadcasting plans most of all on the basis of such audience research. The Broadcasting Council, as an independent regulatory body, should also obligatorily initiate on its own the conducting of regular audience researches.

16) The media, editors-in-chief and professional media organizations should initiate joint projects, training and debates so as to overcome self-censorship practiced by many journalists in Macedonia, as a result of political or economic influence in the media.



IV. PROFESSIONAL CAPACITY BUILDING AND SUPPORTING INSTITUTIONS THAT UNDERPINS FREEDOM OF EXPRESSION, PLURALISM AND DIVERSITY

A. AVAILABILITY OF PROFESSIONAL MEDIA TRAINING

4.1 Media professionals can access training appropriate to their needs

Indicators:

- Qualification programmes for journalists exist
 - Training programmes offered by a spectrum of providers – domestic and external
 - Opportunities for qualified journalists at all levels to upgrade their skills and essential disciplinary knowledge
 - Opportunities for regional and international exchanges and programmes
 - Support for journalists who need to specialize in specific subject areas
 - Training in IT skills
 - Opportunities for journalists to access distance learning
 - Training physically accessible to all journalists (e.g. not solely concentrated in urban centers)
 - Training courses that combine production and training
 - Training uses local languages and appropriate technology
 - Training material is accessible and available in local languages
 - Training accessible to women and marginalized groups
 - Training programmes are adequately evaluated by the participants
 - Training covers building awareness of the need for good systems of management, transparency and dialogue between management and staff
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In Macedonia, in 2010/2011 year, 163 electronic media have been registered, around 20 printed editions and approximately an equal number of Internet portals which offer serious informative content. The research on the level of education of the journalists who work in the electronic media is conducted by the Broadcasting Council. According to this research the number of journalist with a university education was almost twice higher than the number of journalists with high-school education in 2010 (see Chart 2 and 3 in the part III.A.3.2). However, there is no data about the number of journalists who have education in the field of journalism.

Apart from the higher education institutions for directed and vocational education, the journalists from the Macedonian media have received and receive their professional education in the field of media through various training, conducted by various media and non-media citizens organizations and other types of organizations. In the past 20 years many projects have been carried out for improving the quality and the level of knowledge of the media professionals in the country. Training for journalists were organized since the beginning of the 90s, by domestic and foreign organizations, such as OSCE, UN, FOSM, USAUS, the programmes of the European Union, and from the domestic organizations, oc-

asionally by AJM. By the end of the 90s, after the foundation of the Macedonian Press Centre, a more constructive approach for training of the media staff was started. All these initial efforts in the direction of strengthening the knowledge of the professionals who already work in the media were almost solely based on foreign donation, which is also the case today, and, as well as in the other countries in the region, this is mainly due to the lack of interest of the media owners to invest in ongoing improvement of the knowledge of their employees.

In 2001, with the foundation of the Macedonian Institute for Media (MIM), a civil society organization supported by around 90 media, a more organized platform for training of journalists was started. During its ten-year existence, MIM organized a large number of training for journalists and other media professional staff. Training was organized for basic journalistic skills, but also for more complex forms of journalism, such as investigative journalism, and specific training for particular fields, such as reporting on differences, training for journalists working on economic and political columns, training for reporting during elections, training for reporting with the use of computer equipment, reporting on human rights, etc. Apart from the short training, in 2002 and 2003 semester courses were organized for the journalists with less experience, which were the first long-term educational undertakings for media staff. Training for the editors was also organized. In that period with professional support of the Danish School for Journalism, the preparations for the founding of a One-Year-Diploma-Programme in Journalism. During the preparation period of the One-Year-Diploma-Programme in Journalism, over 20 renown journalists and editors went through a series of training for trainers, led by Danish lecturers and experts. The goal of the training was to prepare the best journalist in the country and to provide them with the necessary skills in order to be able to transfer their knowledge to the younger generations. During the four-year existence, from 2004 until 2008, over 90 young journalist received their education in the One-year school of journalism, out of which 80% successfully work in the Macedonian media, and some of them became editors-in-chief, editors, famous presenters and journalists in respected media. The experience from the One-Year-Diploma-Programme in Journalism motivated MIM, to found the School for Journalism and Public Relations, the only non-profit higher education institution specialized in journalism studies which provides the students with the highest amount of practical work, compared to the other faculties.

4.2 Media managers, including business managers can access training appropriate to their needs

Indicators:

- Training for managers of media companies
 - Training in appropriate business skills including marketing, financial management
 - Training programmes accessible to women and marginalized groups
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When we talk about training of the managerial staff in the media, we can conclude that in Macedonia very little has been done in this domain. Training and other activities for strengthening the capacities of the media managers are rare and sporadic. In that context we can mention the training of managers and radio owners in Macedonia, which were conducted by the Voice of America and Radio Free Europe in 2000, as well as the training which was conducted with the help from the Media Development Loan Fund, also at the beginning of the new millennium. Some media companies, such as MPM (part of the corpora-



tion WAZ), which publishes the newspapers *Vest*, *Dnevnik* and *Utrinski Vesnik*, conduct internal training and organize study visits for the managerial staff of this company. A similar approach is practiced by some other media, mainly through sending managers on study visits in foreign media. The last educational project which encompassed the managerial structures in the media is the Project for strengthening of the online media in Macedonia conducted by MIM in 2010, in whose frame a three-day training for 12 managers of online and traditional media was organized. They were provided with the possibility to hear the experiences of eminent foreign experts and learn more about the business possibilities offered on the Internet, as well as about the ways in which they can use them for the sustainability of the media.

4.3 Training equips media professional to understand democracy and development

Indicators:

- Training helps build awareness of media's potential in fostering democracy and human rights
 - Training equips journalists to report the perspectives of marginalized groups
 - Training equips journalists with investigative reporting skills and related disciplinary knowledge
 - Training covers journalism ethics, risk awareness and first aid
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The investments in the education of the media professional greatly contributed to the increase of their knowledge about democracy, giving them the necessary potential for making a positive influence on the development of processes in a democratic society. However, the media and the journalists, mainly because the influence from the political factors and other centers of power, and because of their financial weakness, very often do not succeed in fulfilling their role and making use of their accumulated knowledge.

B. AVAILABILITY OF ACADEMIC COURSES IN MEDIA PRACTICE

4.4 Academic courses accessible to wide range of students

Indicators:

- Universities and colleges offer undergraduate and postgraduate courses in journalism and other aspects of media
 - Training materials and textbooks available in local languages
 - Necessary training equipment/technical facilities, including access to ICTs, available in media training institutions
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In Macedonia journalism studies are available on a number of faculties which offer a diploma in journalism, and there also faculties which offer diplomas in communications and other fields connected to media. The journalism studies in Macedonia were established for the first time in 1977 as interdisciplinary studies organized by three faculties: The Faculty of Law, The Faculty of Economy and the Faculty of Philology in Skopje. By the end of the 80s, the journalism studies became a part of the Faculty of Law

as interdisciplinary studies, and later turned into a separate programme – law studies, journalism studies and political studies. (<http://www.pf.ukim.edu.mk>)

The journalism studies on the state university for a long time had a problem with the practical part of the studies as well as with the old-fashioned curriculum. In 2003 a Commission for the introduction of the credit transfer system was formed as well as for changes of the journalism studies curriculum, in order to make them more contemporary and to enrich the educational content (with an accent on the content which is important for Macedonia's process of a political and educational approach towards Europe – European integrations, human rights and freedoms, freedom of expression, ethics, intercultural aspects of media etc.), acquiring a broader corpora of professional knowledge and introducing practical training. In the process of structuring the curriculum in accordance with the ECTS, the criteria was adjusted to the specifics of journalism studies, to the new cycles of studies according to the Bologna declaration and according to foreign experiences. The studies require a 3 years study, divided in 6 semesters, after which there is a possibility to go on with the next two-year cycle, during which one can choose from the following directions of study: journalism, media and communication and public relations. During those two years, the programme is organized in 4 semester, and the students are offered a double specialization: in accordance with the chosen direction (journalism, media and communication or public relations) and in accordance with the field (with the help of the long list of electives). The tenth semester is foreseen for practical work depending on the media which the student has chosen.¹⁴⁴

On the state university "Goce Delchev" – Shtip, in the frame of the Faculty of Law, there is a study programme for journalism and public relations since 2009. The studies are three year long and are organized in accordance with the European credit transfer system. The programme includes subjects from the field of journalism and public relations, such as: introduction to journalism, journalism ethics, reporting journalism, media and globalization, researching public opinion, journalism in the printed and electronic media, public relations, communication and relations with the media and etc. (www.ugd.edu.mk/)

The School of Journalism and Public Relations was founded in 2008 in Skopje and it is the first higher education institution in Macedonia which offers specialized undergraduate studies in two fields: journalism, and corporate communication and public relations. The study programme in journalism is unique in the country and in the region since it is in accordance with the Model study programme of UNESCO from 2007 and with the Tartu Declaration, adopted in 2006 by the members of the European Journalism Training Association (EJTA). The study programme for Corporate communication and public relations is developed in accordance with the highest standards for high education and harmonized with the Code of Ethics of the Institute for Public Relations from Great Britain.

The School offers applied higher education and a balanced ratio between the theoretical and practical subjects, using the method "learning by doing" with TV, radio, printed and online media. Both study programmes, journalism, and corporate communication and public relations foresee mandatory internship in the media in Macedonia, as well as in the private companies, in public relation agencies, in research institutions and public institutions, which until now proved to be a chance for the student to find employment. In the three study programmes 100 students have enrolled until now, and the first generation is expected to graduate in 2011. On a postgraduate level, beginning from the next academic year, the School plans to offer two different study programmes: Managing of media and multimedia

144 Website of the Faculty of Law <http://www.pf.ukim.edu.mk/DesktopDefault.aspx?tabindex=0&tabid=242>

and Managing of strategic communication. Both study programmes are introduced for the first time in Macedonia, incorporating international experiences and knowledge in the development of higher education, as well as the latest trends in both study fields.

Since June 2011, with the decision of the organization UNESCO in Paris, the School became a bearer of the Department of UNESCO for Media, dialogue and common understanding. The primary goal of the Department is to raise the quality of higher education in journalism and communications, in accordance with the international and European standards in the field of higher education. The study programmes and other initiatives of the Department will be focused on the development of cultural diversity and promotion of the intercultural communication and dialogue among the different social and cultural groups in the Macedonian society. (www.vs.edu.mk)

The state university in Tetovo, in the frame of the Faculty of Law, according to the web-site of the faculty, also offers studies in journalism, on an undergraduate level. (<http://www.unite.edu.mk/Maqedonisht/Kontakt.html>)

The South East European University, in the frame of the Faculty for Languages, Culture and Communication, organizes programmes for media studies, cultural relations, political and social analysis since 2001, which are compatible for students interested in journalism and public relations. (<http://www.seeu.edu.mk/en/faculties/LCC>)

From the affiliated aspects of the media sphere, in the frame of the University of Tourism and Management there is a Faculty of Public Relations. (<http://www.utms.edu.mk>)

There is a Faculty of Political Studies, Diplomacy and Journalism on the FON University, where both on an undergraduate and postgraduate level there are subjects from the field of communications. (<http://www.fon.edu.mk>)

At the European University, in the frames of the Faculty of Political Sciences on undergraduate level, subjects related to communication and media are studied, while on postgraduate level, there is a specific module for communication and media. (www.eurm.edu.mk)

The Faculty of Dramatic Arts in Skopje offers courses in production, directing, camera and editing. (<http://www.fdu.ukim.edu.mk>)

Very little has been written and published in Macedonian in the field of media and other aspects from this sphere. The School for Journalism and Public Relations is a forerunner in this sphere in comparison to the other educational institutions. Since 2010 it has published 6 books from domestic authors and translated relevant literature from foreign authors from the field of journalism and corporate communication and public relations (Freedom of expression, public interest and media regulation; Introduction to public relations; Media, citizens and intercultural communication and three translations.)

An important part of the activities of the Macedonian Institute for media are dedicated to the publishing activity. The edition "MIM" includes over 30 titles in Macedonian, Albanian and English published in the past 10 years – Handbooks for journalism, thematic publications, regional research and handbooks for communication with the media and public relations. The books Writing for printed media (2005) and Writing for electronic media (2005) contain the basic and the practical rules for writing in a

newspaper, radio, TV and online journalism, and served as a main teaching tool for many higher education institutions.

The Faculty of Law has also published textbooks for journalism studies on an undergraduate level connected to public opinion, communication theory, ethics, and on a postgraduate level – for media law, ethics in the media and etc.

Regarding the technical capacities of the educational institutions, it can be said that most of them are equipped with modern technical equipment and adequate rooms, including an Internet access.

With regards to the relations between the academic institutions and the employers in the industry sector, the School of Journalism and Public Relations signs memoranda for cooperation with the public institutions, companies, nongovernmental organization etc (it has signed 50 until now) on which basis the students will be able to perform their mandatory internship. The Faculty of Law at the University “Ss. Cyril and Methodius” has also signed memoranda for cooperation with media, for example with the public service broadcaster MRT.

4.5 Academic courses equip students with skills and knowledge related to democratic development

Indicators:

- Courses cover issues of media law, ethics, regulation and public policy
 - Courses help build awareness of the potential of media in promoting democracy and human rights
 - Courses equip students with the skills needed for independent thought and analysis
 - Courses contain essential disciplinary knowledge in the subject areas journalists are expected to cover
 - Courses on media literacy geared to the modern communications environment are provided
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Most of the faculties offer study programmes, which are a combination of communication, sociology and political studies, but not many of them cover media law, regulation and ethics, courses which are essential for the future journalist and media experts. Furthermore, most academic institutions lack practical work in this field.

The School of Journalism and Public Relations in the frame of the theoretical studies includes media law, regulation and ethics as part of separate courses. These fields are also integrated in the frame of other courses. The theoretical education is reinforced with a great deal of practical work, so that the students have the possibility to practice journalistic skills and knowledge in the course of their studies.

The School is founded by the Macedonian Institute for Media, with a common goal to improve the quality of education for journalists in the Republic of Macedonia. The School and MIM are connected to each other through projects, experiences and knowledge. For example, the School is a partner in the project “Improving Media Literacy in the Education in Macedonia”, which is conducted by MIM. Experts from MIM and lecturers from the School took part in the writing of the Handbook on Media Literacy for teachers in primary and secondary education. The School has established a long-term partnership



with: the Danish School for Journalism, the Windesheim University of Applied Sciences from Holland, the Peace Institute in Ljubljana, the Media Diversity Institute in London, as well as domestic partners: the Institute for sociological, political and legal research from Skopje, the Institute for peace studies at the Faculty of Philosophy in Skopje, the Faculty for public administration at the University "St. Clement from Ohrid" in Bitola, the University of South East Europe in Tetovo etc.

At the Faculty of Law in the frame of the University "Ss. Cyril and Methodius" ethics and freedom of expression are separate courses, however media law and regulation are not taught as separate courses. The courses Reporting and editing in journalism, as well as Technology and organization of media also include practical work. According to its web-site the Faculty of Law has an intensive cooperation with many foreign and domestic nongovernmental institutions which work in the field of education of journalists, with foreign universities, with domestic and foreign media, journalists and experts.

At the Faculty of Law at the University "Goce Delchev" – Shtip, in the frame of the first cycle of studies of the study programme for journalism, courses such as journalism ethics, media law and media editorial policy are taught, and on a postgraduate level, in the frame of the study programme for public administration, judicature and applied politics and diplomacy, as well as the courses political ethics, marketing and public communications and ethics in business communication.

C. PRESENCE OF TRADE UNIONS AND PROFESSIONAL ORGANISATIONS

4.6 Media workers have the right to join independent trade unions and exercise this right

Indicators:

- Right to form unions is respected in law and in practice
 - Right to take industrial action is respected in law and in practice
 - National journalism associations can exercise the right to affiliate with appropriate Global Union Federations and international professional associations
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Even though formally and legally the trade union organizing among the employees in the media is allowed according to the Law on Labor Relations, in Macedonia it is relatively new. After the numerous unsuccessful attempts in the past 20 years, on 12 November 2010 the first Independent Union of Journalists and Media Professionals (SSNM) was founded. The regularly employed as well as the freelance workers, who are a large part of the media workers in Macedonia, are members of the trade union. In the first six months the Independent Union of Journalists and Media workers gathered over 600 application forms from employees in the media from all the cities in the country.

After less than a year since the founding of the Union, it started to face challenges. The journalists who dared to openly speak about the working conditions, face a real danger of losing their job.

The president of the Union and the shop steward, as well as two employees in the TV station Alsat-M, were laid off in the second half of 2011. In the case of the president of the Union the explanation of the TV station was that it was an agreed termination, even though she claimed not to have signed it. According to

the two journalists the reason for their lay-off is the trade union organizing, and the president of the trade union was laid off in order to discourage further attempts for strengthening of trade union organizing.

The Union also reacted when five journalists from *Utrinski vesnik* were dismissed in June 2011, without a notice of dismissal, and they were also not allowed to enter the premises of the company, because they stopped working as a sign of protest against the announced cuts of working positions. The State Labor Inspectorate in the Ministry of labor and social policy determined the lay offs of the five journalists as invalid, with an explanation that the employer did not respect the notice period and broke the Law on working relations.

In general, the journalists in Macedonia are in a paradoxical situation – on one hand it is expected from them to be critical of the social deformities, and on the other they can not express even minimal criticism towards the media and the conditions in which they work.

Since March 2011, SSNM is a member of the International Federation of Journalists, and it actively cooperates with the trade unions in the region.

From the professional organizations, the Association of Journalists of Macedonia is the oldest and largest association of journalists, founded in 1946. The main task of the Association is to protect and promote the freedoms, rights and responsibilities of the journalist. AJM has actively participated in the preparation of the legal regulations and international conventions which are of interest for the profession and has protected the professional interest, in accordance with the Code of journalists of Macedonia.

There is also a Macedonian Association of Journalists (MAN) in Macedonia, founded in 2002, however it is inactive.

4.7 The trade unions and professional associations provide advocacy on behalf of the profession

Indicators:

- Trade unions recognized as negotiating partners by employers' groups, both on labor and professional issues
 - Professional journalism associations (specialist networks, press clubs etc) actively debate media ethics and standards
 - Employers' associations set standards and actively defend freedom of expression
 - Trade unions and professional associations disseminate codes of ethics and actively defend freedom of expression
 - Trade unions defend the interests of women media professionals
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The Independent Union of Journalists and media workers strives for the respect of the media freedom together with other media organizations (AJM, MIM and others) and reacts when it is threatened. SSNM's standpoint is that the right of an equitable payment and dignified working conditions are of key importance for the professional autonomy which is a precondition for a free and professional journalism.

Aside from building the capacity of the organization itself, SSNM adopted a profile of an active protector of the basic worker's rights of the employees in the media. The degree of their disrespect,



from the employers in Macedonia, is dramatically high. There are cases when the owners and managers of the media houses use threats and blackmail to put pressure on their employees in order to discourage them from trade union organizing even though that is prohibited by law. Therefore SSNM is forced to fight its battle in the judiciary, and not by means of collective bargaining and social dialogue.

However, it needs to be underlined that the media owners/employers in Macedonia are not organized in their own association, even though some media are part of the Economic Chamber of Macedonia. So, if the Union starts an initiative for signing a collective agreement, the question is, in the absence of such an association who will be the partner on the other side, except the Government, namely the Ministry of Labor and Social Policy.

The trade Union provides legal help and free representation in court for its members. Over 15 cases of unlawful layoffs, unpaid salaries and other violations of the workers rights have been brought to court, and on 4 July 2011 with the support of the Association of Journalists, SSNM organized a "Solidarity March" for the fight for workers rights.

SSNM is an active participant in the professional debate (on conferences, public appearances, workshops) about the state of the journalism especially from a social and economic aspect.

The journalism organizations in Macedonia debate about ethics and ethical standards in journalism in the frame of different events, seminars, conferences, workshops etc. The Association of Journalists of Macedonia also plays an active role in the protection and promotion of the ethical and professional standards. In 2011 it started a number of initiatives for protection of the journalists against all forms of pressure, mainly against criminal charges for defamation and offence, and together with other media organizations it lobbied for different legal initiatives. One of the short-term goals of AJM is to form a independent self-regulatory body of media in Macedonia which will increase the degree of usage of professional and ethical standards, but also to lower the degree of self-censorship among the journalists. AJM strives to provide certain benefits for its membership. AJM is a member of the International Federation of Journalists.

D. PRESENCE OF CIVIL SOCIETY ORGANISATIONS

4.8 CSOs monitor the media systematically

Indicators:

- CSOs monitor media content and ownership in the interests of promoting pluralism and diversity
 - CSOs provide critical analysis of media, especially in relation to representation of marginalized groups
 - CSOs play a role in promoting media literacy
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Apart from the Association of Journalists of Macedonia (AJM), as the largest professional association of journalists, there are a number of NGOs which actively work in the media sphere in Macedonia, such as the Macedonian Institute for Media (MIM), NVO Infocentre, the Media Development Centre (MDC), the Open Society Foundation through its Media Programme.

From them, MIM and the Infocentre have a developed research component in their activities. During the Presidential and Local Elections 2009 and the Parliamentary Elections 2011 MIM– conducted extensive monitoring of the way of reporting in the media, focusing on the professional journalism standards for reporting during elections. The analysis are publish on the web-site of MIM (www.mim.org.mk). The institute conducted around ten studies in the last years, out of which more notable are the following: Media: Business in Ethics, Ethics in Business (2005), Analysis of the Working Relations in the Media and the Breaking TV News in the Domestic Media (2010), The Situation of Online Media and Online Journalism in Macedonia (2010), while in 2010/2011 MIM in cooperation with the Friedrich Ebert Foundation conducted three analysis were published: *“Analysis of the issue of self-regulation in the media in Macedonia”*, *“Analysis of the public broadcasting in the Republic of Macedonia in the context of the European media policy”* and the *“The situation of the media in the languages of the communities in the Republic of Macedonia”*.

Regarding critical analyses, especially in relation to the representation of the marginalized groups in the media, one of the rare analysis on this topic is the analysis from MIM in 2007/2008, based on the conducted monitoring in the media in 2007/2008 in which the quantity and the quality if the reporting on human trafficking in the news of 19 media was monitored. Coalition “Sexual and heath rights of the marginalized communities” also conducted research entitled as *“Media and marginalized communities.”* However, analysis such as these ones are very rare.

In the direction of supporting freedom of speech and the development of independent, free and democratic media, MIM, AJM, SSNM, especially in the past 2011, undertook many activities connected to lobbying for some legal solutions, as well as for the media situation in the country. MIM and AJM supported the journalism protest organized by SSNM on 4 July 2011 for the protection of journalist’s rights, and reacted against the fast changes in the Law on Broadcasting Activity brought by the Assembly of the Republic of Macedonia, with which the number of members of the Broadcasting Council changed from 9 to 15 (see parts I.A.1.1 and I.A.1.5). Furthermore, MIM reacted to the start of the bankruptcy procedure for TV A1, stating that the public interest should be taken into consideration, as well as when the Agency for electronic communication took the frequency from A1 TV station, even though the Broadcasting Council did not previously take away its license (See III.F.3.13).

The NVO Infocentre conducts analysis of the content of the news connected to specific topics (social, political, media etc.) and regularly publishes reports which are called “Media Mirror” (www.nvoinfocentar.org.mk). This organization also conducted monitoring of the Parliamentary elections in 2011 and of the Presidential and Local elections in 2009.

The Media Development Centre conducts the analysis *“Index of Media Sustainability”* in accordance with the methodology of the American organization IREX. (www.mdc.org.mk)

The Open Society Foundation, through the Programme for media conducts projects connected to media. Some of its activities are: stimulating public debate about EU topics, promotion of EU values, monitoring and stimulating the development of the adequate legal and regulatory framework for media, including the work of the competent regulatory bodies etc. (www.soros.org.mk)

Regarding media literacy, MIM is the only organization which works in this field. The Institute initiated and conducted a three-year project for introduction of media literacy in education. In the frame



of this project around 60 trainings of 1200 professors from all primary and secondary schools in Macedonia were held, the experts from MIM and the School of Journalism and Public Relations wrote the Handbook for media literacy for teachers, the web-site dedicated to this subject was opened, and two conferences which gathered the experts of media literacy were held.

4.9 CSOs provide direct advocacy on issues of freedom of expression

Indicators:

- CSOs actively promote freedom of expression, right to information, journalism safety
 - CSOs engage with policy makers on the issue of public policy towards the media
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The NGO sector, in 2011 acted in a very organized way and undertook a series of activities for the protection of the freedom of expression and the safety of the journalists. The three organizations – MIM, AJM and the Union – held a joint press conference for the 3 May – The World Press Freedom Day, underlining the grave situation in the media sphere and asking from the institutions, political centers and media owners to allow a nonselective application of the regulation and free functioning of the media without any kind of pressure. The majority of media organizations, journalists and media supported this protest organized by the Union and AJM, as a signal to the centers of power who exert pressure over the media and the journalists.

Both MIM and AJM regularly react on the situations in the media sphere through statements, reactions and expressing protest.

However, one of the more important initiatives of MIM and AJM, supported by the Embassy of the Kingdom of Netherlands in Macedonia, was regarding the improvement of the situation of the media sphere in Macedonia. At the beginning, a two-day working meeting was organized in Mavrovo in October 2011. The meeting was attended by around 40 renown editors, journalists, media owners and media experts, who determined the problems which the media community is facing. The meeting provided the Macedonian journalists with the opportunity to jointly reform their readiness to solve the situation of the media and to work actively with all relevant institutions and individuals in order to find a way to overcome the problems. An Action plan came out as a result of the workshop, in which all the problems with which the media community is faced were stated, grouped in the following way: 1) Legislation (decriminalization of defamation and offence, implementing the laws which regulate the media sphere, regulating the media and advertising market, regulating the public advertisements and campaigns financed from the budget, subsidizing media – local, regional, nonprofit etc.) 2) Public Service Broadcaster MRT (political pressure over the editorial policy, staff policy, financing, a lack of programme services, relation between PSB and commercial media, defining “public interest” etc.) 3) Quality of journalism, ethical and professional standards (self-regulation and disrespect of the ethical and professional standards, low level of general journalism education and a lack of specific programmes for further education of journalists, as well as the reflection of the disrespect of the labor rights and of not existing collective agreement on the journalists’ security and on the quality of the media product).

In the frame of these activities MIM and AJM organized a conference in December 2011 with the title “Improving the situation of media in Macedonia”. The Action plan which determines the priorities,

problems and goal as well as the possible approach for the solution of the situation was presented. The idea is for this plan to serve as a basis/ platform upon which all further policies and steps directed towards improvement of the media landscape in Macedonia shall be built and implemented.

From the other nongovernmental organizations which actively work in the sphere, the Media Development Centre (MDC) strives for the improvement of the legal regulations connected to media and informing, as well as creating quality media policies which will promote the principles of impartial and ongoing informing of the public. MDC fulfils its primary tasks and goals through seminars and workshops, and not so often through organizing training for media professionals. MDC, according to its website, in the past years has cooperated with regulatory bodies, media, political parties and international representatives, with an aim to raise the awareness for a better implementation of the broadcasting legislative, as well as about the future amendments to these laws and regulations, which need to be in accordance with the EU standards.

Until few years ago there were also professional associations of the electronic and printed media – Association of the Private Electronic Media of Macedonia (APEMM) and the Association of Printed Media and News Agencies of Macedonia (APM), which represented the interests of the electronic, and printed media and the news agencies. After the financial support from the donors for the working costs ended, these associations stopped functioning.

4.10 CSOs help communities access information and get their voices heard

Indicators:

- CSOs provide advice and assistance to people wishing to access the media
 - CSOs involved in training journalists and capacity building
-

Training for citizens wishing to gain access to the media is rarely organized. The training for media literacy of the Macedonian Institute for Media, whose main goal was to teach the public to critically approach and analyze the media messages, aimed at teachers, is one of the rare examples in the sphere.

The training which is organized by the NGO sector is most often intended for journalists. MIM, for example, is a specialized centre for training of journalist and media professionals. The Institute in the past 10 years has organized around 100 trainings in the field of journalism, communications and public relations, led my renown editors and journalists from the most influential media in the country. MIM is intensively directing its educational programmes towards the usage of digital media and the Internet, but it has also organized training for the NGO sector and the public sector (for public and state organizations and institutions). The Institute has also organized training for the media of other ethnical communities, such as the training in Albanian language which encompassed around 100 journalists and other media professional who work in the civil sector, public administration and public relations. Since the founding of the Institute in 2001, around 1500 journalists have taken part in various trainings and workshops in the country, and over 200 journalist have been sent to various study visits and training abroad.

The Programme for media of the OSI, conducts a number of projects in the media sphere, among



which one is related to the strengthening of the capacities of the media for covering questions connected to the accession to the EU. The Foundation, in cooperation with the Association of Units of Local Self Government (ZELS) conducted the project "Implementation of the free access to information on a local level," from 2004 until 2006. In the frame of this project training was organized for the representatives of the local self government, the local NGOs and citizens. The training was focused on raising the awareness of the officers in the municipalities and the citizens about the rights/obligations connected to the development of a unified policy for free access to information of public character on a local level.

With regards to whether the civil society sector helps the citizen to better access the media and information, it can be said that only rare examples exist. One of them is the project of Forum' Centre for strategic research and documentation for transparency and accountability of all the municipalities in Macedonia from 2010. The project researched the condition of the web-sites of the municipalities, regarding their updating, qualitative and quantitative offer of content, the possibility to access the news about the municipalities and the forms and documents connected to the work of the municipalities, as well as the possibility of the citizens to file complaints to the municipal services. The Centre also researched whether the municipality has a service or a person for public relations (See more in part I. A.1.2.)

RECOMMENDATIONS:

1) So as to establish social dialogue and to resolve numerous status issues of journalists, apart from associating of the media in chambers on the basis of their business initiative or interests, it is indispensable to found an association of media owners as employers or to re-activate professional associations (Association of Private Broadcasters of Macedonia and Association of Printed Media and News Agencies of Macedonia) on the principle of financial viability, whereby they would actively represent the interests of the media before the state authorities and in the society, which was the practice in the past.

2) Initiating preparations and negotiations to sign a collective bargaining agreement between the Trade Union of Journalists, the Ministry of Labor and Social Policy and the respective body of the employers.

3) Organizing trainings for managers in various segments of the media industry, through which they would constantly gain and upgrade appropriate skills for successful media business management. Thereby, a new and modern organizational and management structure would be built, under the circumstances of fair competitive surrounding on the media market.

4) Animating the civil society, by means of independent or umbrella non-governmental organizations, which will actively participate as a partner in the process of harmonization of current laws with the EU legislation, and in the amendments/ adoption of other laws that directly or indirectly encompass the media sphere.

5) Improvement of the cooperation between universities, faculties and schools of journalism education and the media industry, with the purpose for new generations of professionals (journalists and other media workers) to be acquainted with the modern trends in journalism and in the media, thus answering successfully to the demands of the industry.

6) Organizing trainings for the already employed journalists and other media workers according to the needs of the industry

7) Support to the internal forms of education and practice for journalists and other professionals in editorial boards, as an autonomous process of transferring knowledge and skills from senior to younger colleagues (system of trainings, mentorship, etc.)

8) Initiating and implementing projects on specialization of journalists who have no formal journalism education (by means of specialized trainings or journalism school)

9) Stimulating investigative and civil journalism by the media and organizations from the non-governmental sector by means of projects and trainings, where apart from employed journalists and freelance associates, students from the faculties of journalism, media and communication would be included.

10) Initiating and conducting trainings for journalists working in community media, for journalists in regional and local media, as well as for correspondents.



V. INFRASTRUCTURAL CAPACITY IS SUFFICIENT TO SUPPORT INDEPENDENT AND PLURALISTIC MEDIA

A. AVAILABILITY AND THE USE OF TECHNICAL RESOURCES BY THE MEDIA

5.1. Media organizations have access to modern technical facilities for news gathering, production and distribution

Indicators:

- Journalists have secure, reliable and affordable access to ICTs, and are trained to use them effectively
 - Journalists have access to a wide range of reference and archival material
 - Community media are equipped with appropriate technical facilities to reach marginalized communities
 - Adequate printing and distribution facilities are available to print media
 - Media organizations make use of multi-platform delivery systems
 - Public, private and community media use ICTs to generate citizens' engagement with the media
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The data about the technical and technological capacities of the electronic and printed media in Macedonia is not regularly updated. These kind of data can only be found through individual contacts with the media owners.

Regarding the technical capacities of the electronic media (PSB MRT and the commercial media) there is no current data, even though there is information which are part of the report which the electronic media submit when applying for a license. However, this data is old having in mind that most of the electronic media have been broadcasting for years (decades). The general assessment is that the four private TV stations (not counting TV A1) on a national level, are relatively well technically equipped, the journalists have access to modern ICTs and know how to use them.

However, most of the local television stations are falling behind in the technical and technological development. The technical equipment is very often a problem for the media of the communities, which is also stated in the analysis of MIM and the School of Journalism and Public Relations *"The situation of the media of the languages of the communities in RM"*. The services of the communities which broadcast on the Second programme of the public service MTV are also in bad condition. They do not have enough journalists, nor technical staff to perform their obligations to the public service. The poor technical condition for production of the programme also contributes to its unattractiveness, which is general problem for MRT. The Second service of MRT has three rooms at its disposal, with the same number of computer systems for editing of all TV shows of the communities and three two four editors who do all the work. MRT has received modern equipment mainly from international donors in the frame of the projects for transforming of MRT in 2001, however that equipment is also old and depreciated and can not satisfy the needs of the programmes of the communities, it is stated in the *Analysis* of MIM and the School for Journalism and Public Relations.

The company “Media Print Macedonia” (MPM), with the newspapers *Dnevnik*, *Utrinski Vesnik* and *Vest*, has its own printing house “Graphic Centre”, as well as its own organized system for distribution of the editions. The newspaper *Nova Makedonija* is also printed in the printing house of MPM, and the distribution is conducted mainly by MPM. The newspaper *Večer* has its own printing house “ABC Print”, while MPM conducts the distribution. The newspapers of the media company close to Velija Ramkovski, until they were published, had their own organizational system for printing and distribution.

The newspapers in Albanian language most often do not have their own system for distribution and printing. The newspaper *Koha*, at the beginning was part of the media company close to the Velija Ramkovski, so the printing, marketing and distribution was conducted by this company. After *Koha* left this media company, a new newspaper in Albanian was developed in its frame, ****e Re (Koha e Re)*, which in a short time, as well as its predecessor, also received support from MPM for the printing, marketing and distribution. The company MPM cooperates with the daily newspaper *Koha*, where the weekly newspaper *Tea Moderna* is translated into Albanian, and the cooperation also encompasses distribution of *Koha* to the MPM network. The advertising for *Tea moderna* for both editions, in Macedonian and Albanian, is conducted by the only service MPM, which means that the newspapers (regardless whether they are from the Macedonian, Albanian or any other ethnic community) can advertise their products and services for the entire readership of *Tea Moderna*. The other newspapers in Albanian also most often do have their own distribution and printing.

Most of the media – printed and electronic, have their Internet issue. The latest trend among the printed media is the division in online editions and electronic version of the printed edition. The online edition is more dynamic and provides the latest news during the day, in does not resemble an agency edition so much, while, the electronic edition is the exact copy of the printed version of the newspaper. The circulation of the newspapers decreases, not because they lose readers, but because the readers turn to reading the electronic version.¹⁴⁵ The latest trend among the online editions is that the newspapers *Dnevnik*, *Utrinski Vesnik* and *Vest*, introduced a fee for a complete access to the content of the printed edition on the Internet.

Regarding the availability of archival materials, the Public Service Broadcaster MRT has a rich archive and documentation. The former state owned Newspaper publishing company “Nova Makedonija”, also had its own archive, which after the privatization and sale of the House was donated to the library “Miladinovci Brothers”. The national newspaper have their own archives. Which are available on the Internet.

Regarding the possibility for distribution of the media content on the Internet, all TV stations on a national level have the possibility to broadcast their news in their complete format or separate shows or contributions online. MTV1, A2, Alfa, Kanal 5, Telma, Sitel, Nasha TV, Dzangl TV, and BTR have the possibility to broadcast live on the internet via www.zulu.mk. The TV Station www.makedonija24.mk is the first Internet TV station in Macedonia. This TV station is not subject to regulation, since the Macedonian legislation is still not harmonized with the European Directive for audio-visual media.

Unfortunately, the radio in Macedonia is generally in a bad state which is mirrored in the attempts for broadcasting radio on the Internet, despite of the possibility for complementary functioning of both platforms, which is not a rare example outside of the country. Being the most active national

¹⁴⁵ IREX (2011) “Media Sustainability Index”. Available on: <http://www.irex.org/resource/macedonia-media-sustainability-index-msi>

radio network from an informative aspect, Radio Kanal 77 has its web edition, which is not ranked very high in comparison to other informative web sites.

Regarding the presence of citizen journalism, it is not developed in Macedonia, even though the media are making attempts to include the citizens through the usage of information technologies. Some of the web sites have options for contributions from the citizen, however the number and the quality of the content is low and is usually a photograph taken by the readers/viewers. It happens that content made by the citizens is reviewed by the journalists and published in the news. The blogosphere is generally developed, but the information can not be considered as credible. The famous journalists and creators of public opinion in Macedonia rarely write their own blogs. A greater part of them are using *Twitter* or *Facebook*.

Most of the online editions, of the national daily newspapers and TV station, leave space where the citizens can write their comments after the texts. Some contact shows ("Hallo Macedonia", "Eat Burek", "Black bumblebee – white bumblebee", "Here and now" etc.) have their own *Facebook* pages, and some media (such as the newspaper *Nova Makedonija*, for example) can be followed on *Facebook* and *Twitter*.

B. PRESS, BROADCASTING AND ICT PENETRATION

5.2. Marginalized groups have access to forms of communication they can use

Indicators:

- The public broadcaster is technically accessible nationwide
 - The state takes positive steps to ensure maximum geographical reach of all broadcasters
 - Non-print media is accessible in communities with high levels of illiteracy
 - Community-based broadcasters or publications have high or growing levels of penetration in their target area
-

According to the Law on Broadcasting Activity, the Public Broadcasting Enterprise is founded for the entire territory of the Republic of Macedonia (Article 8). The commercial broadcasting companies can perform activities on national, regional and local level. According to Law, broadcasting activity on national level is broadcasting activity pursued by a broadcaster that provides coverage, in terms of listeners and viewers, of at least 80% of the total population of the Republic of Macedonia (Article 4, paragraph 5). Regional level medium should provide coverage, in terms of listeners and viewers, for a territory of several municipalities that form a natural geographic or demographic entity, with a population from 150.000 to 400.000 citizens. The City of Skopje and its surroundings shall be considered as separate region (Article 4, paragraph 6). Regarding the broadcasting activity on local level, the broadcaster should provide coverage, in terms of listeners and viewers, for the area of a single settlement and its immediate surrounding, with a population that shall not exceed 150.000 citizens (Article 4, paragraph 7).

The electronic media, particularly MTV public service are present almost on the entire territory of the country. The Public Enterprise Macedonian Broadcasting looks after the coverage with strong signal of all urban and rural areas in the country (even the furthest areas and the most remote areas). Huge parts of them are covered with RA/TV signal.

MTV 1 (first programme) covers 99% of the entire population of Macedonia with analogue TV signal; MTV 2 (second programme) of the languages of the communities of Macedonia covers 98.5% of the population; and MTV 3 third programme (the Parliamentary TV Channel) covers 90% of the population of the country with analogue signal. The coverage of quality analogue radio signal of the suitable programme radio services of MRT is the following: Macedonian Radio first programme with FM signal covers more than 95% of the population of the country; Macedonia Radio second programme with FM signal covers more than 90% of the population; Macedonian Radio third programme with FM signal covers more than 95% of the population. Macedonian Radio first programme (combined with Radio Macedonia) with SB (AM) signal cover more than 99% of the population of the territory of Macedonia.

For certain marginalized groups, such as people with impaired hearing, MTV 1 broadcasts sign programmes. Apart from the news and the shows for the people with hearing impairment, the Macedonian television, also, creates and broadcasts shows for the citizens with disabilities, such as the children with special needs ('the Fifth Angel', 'Third epoch' etc.). Other television companies, such as TV AB, also, produce television shows for the disabled people.

There is no data for the coverage of listeners of the three student non-profit radios.

The Commercial Broadcasting Media have the possibility to use the resources, on commercial terrestrial, of the Public Enterprise Macedonian Broadcasting, which is owner of the biggest infrastructure for broadcasting. The prices offered by the PE Macedonian Broadcasting are approved by the Government, and are more favorable compared to the other users of the infrastructure/resources of the PE Macedonian Broadcasting (such as telecom operator and other users).

Moreover, in Macedonia the television is a dominant medium, through which, 77.3% of the respondents, in the research conducted by the audience of the Broadcasting Council, inform daily for the domestic and foreign events.¹⁴⁶ The same research showed that 34% of the citizens are acquiring information via daily newspaper, 31% acquire information via the Internet, 22% via radio, and only 5.3% of the respondents answered that they acquire information via weekly magazines.

According to the viewers rating share conducted by the agency AGB Nielsen, in the last quarter of 2010 among the Macedonian population and the population of other ethnic communities in Macedonia (Turks, Roma population, Serbs, Vlachs, Bosniaks), most viewed TV station with nearly 1/3 was TV A1. Next is TV Sitel with nearly 1/5, followed by the foreign TV stations. Share of more than 5% of audience had TV Kanal 5 and MTV 1. The Albanian population followed the most TV Alsat-M (28.33%), and around ¼ of the viewers followed various foreign TV channels whose signals reached Macedonia through different ways of reception. Among the individual television channels, next, in terms of viewership, was TV A1 (9.91%), then the Skopje television in Albanian TV ERA (5.68%). On sixth place with the Albanians, with a share of 4.42%, come the programme in Albanian of the public service MTV 2.

According to the research of Ipsos Strategic Pulse, in the last trimester of 2010, greatest radio coverage with the Macedonian population had Antenna 5 with more than 1/5 of the radio listeners. Followed by the national commercial radio Radio Channel 77 (8.86%), next was the first radio programme of the public service, i.e. Radio Skopje (6.10%). The greatest radio coverage with the Albanian population, in the trimester of 2010, had Radio Rapi from Struga (6.86%), closely followed by the programme

¹⁴⁶ Broadcasting Council (2009) „*The programme preferences of the TV and radio public*“. Skopje: BC

of the languages of the ethnic communities of the Macedonian Radio (5.36%), than Vat (5.27%) and Arachina (5.05%) both from Skopje.

Data for the readership of the daily newspapers, in the research of Ipsos Strategic Pulse for the period November 2010 to January 2011, show that more than 10% coverage with the Macedonian readers had four daily newspapers. The greatest share, in terms of readers with the Macedonian population, had *Vreme* (17.95%), *Vest* (16.52%), *Shpic* (15.56%) and *Dnevnik* (13.31%), whereas the Albanian population in Macedonia reads the most, *Koha* with coverage of 22.47%, followed by *Fakti* with 21.27%. All the rest newspapers in Albanian or Macedonian had coverage of less than 10%.

Regarding the Internet penetration, the Government undertakes measures for the entire territory of the country, including the rural areas, as well as marginalized groups. In 2000, according to the data of Internet World Stat in Macedonia there were around 1.5% subscribers of Internet services, whereas in 2006 it reached 19% due to significant decrease of the Internet prices in 2005. At that period Macedonia became "the first wireless connected country," information published by world media. The Macedonian project for wireless networking was conducted with assistance of USAID and it was intended for connection of the isolated schools. Projects for approximation of Internet to the citizens who cannot afford connection in their houses are: equipping all schools with computers, part from the project "Computer for every child"; opening of free Internet clubs in 15 cities throughout Macedonia; free Internet for all citizens for 2 months period in 2008; free IT courses for 40.000 citizens in 2007 and 2008; securing computers for the people with special needs etc.; awarding of vouchers for the students in 2007 and 2008. All student dormitories have access to Internet in the student rooms. In 2009 the project of installing free Internet places in rural areas was launched. Now there are 680 places on the entire territory of the country.¹⁴⁷ In 2009 was, also, created the project www.sakamznammozam.gov.mk for people with disabilities, in order to have easier access to e-contents. Furthermore, free advanced IT courses were organized for the unemployed.

5.3 The country has a coherent ICT policy which aims to meet the information needs of marginalized communities

Indicators:

- CSOs, media, government and commercial entities work together to make ICTs accessible
 - Pricing policy does not exclude marginalized communities
 - Existence of a digital migration policy and strategy
-

The Government of Macedonia has adopted a National Strategy for Information Society Development and Action Plan for its implementation in 2005. The aim of the Strategy was to create modern and effective services for the citizens and the business community through development and application of Information and Communication Technologies (ICT) in all areas of the life. Later, this Strategy was upgraded with the following documents: National Strategy for e-Government 2010-2012, which should provide strategic access in the use of Information and Communication Technologies for more efficient operation of the national administration, the National Strategy for e-Contents Development 2010-2015, that should provide implementation of the programme "Computer for every child," by inte-

¹⁴⁷ Website of the Ministry of Information Society and Administration, <http://mio.gov.mk/?q=taxonomy/term/10>



grating ICT in the instruction and learning of all subjects in the education; and Draft-National Strategy for e-Integration 2011-2014, which represents overall strategic determination with regard to the inclusion of all groups of citizens in the construction of the information society and use of the ICT benefits.

In the last document it is stated that access to information and communication technologies should be provided for all citizens, regardless of their location, ICT knowledge, age, education, limited finances, people with disability or people from socially marginalized groups. In Europe between 30% and 40% of the population is excluded from the benefits offered by the information society, whereas in Macedonia it amounts to 50% to 70% of the population. Therefore, one of the aims of the Strategy for e-Inclusion is increase of the Internet availability and other ICT for all citizens, particularly via inclusion of people who have limited abilities for the use of the state of the art technologies, such as elderly people, people from least developed areas, socially endangered groups, ethnic groups and marginalized groups.

In the period 2008-2010 Macedonia had a growth of the Internet penetration, and according to the data from the State Statistical Office in Macedonia in 2010 more than half of the households, or 53% used computer, an 46.1% used Internet. The percentage of households which used Internet in city is 54.2%, and in village is 32.9%.

Concerning the digital migration from analogue to digital technology, the Government of Macedonia in, December 2010, adopted Action Plan for transfer from analogue transmission to digital terrestrial transmission. According to the data from the web page of the Ministry of Transport and Communication, the plan defines several measures, such as retransmission of programme services of the electronic media through digital signal of terrestrial televisions in the simultaneous transmission period without compensation (period of simultaneous transmission of two kinds of services, digital and analogue), as well as modernization of the Macedonian Radio Television. This document specifies several phases of the media digitalization process. Construction of the necessary network by the Public Enterprise Macedonian Broadcasting, modernization of the equipment in the "Macedonian Radio Television" and defining the term for analogue disconnection are being envisaged, as well as way for transfer of electronic media programmes in analogue and digital signal, simultaneously. Providing devices for people who cannot afford digital TV are also envisaged.

The Action Plan envisages that the Public Enterprise "Macedonian Broadcasting" should construct terrestrial digital television network with state of the art technology, which provides the best quality and the greatest capacity. In the radiation area the European standard DVB-T is approved, and in the coding area the standard MPEG-4, which provides more than 10 standard television programmes or 3 HD television programmes on one multiplex, is approved.

In the function of securing coverage of the population with digital television signal as great as possible, a broadcasting network, consisting of 9 base stations and 46 transmitters (repeaters), was designed. The implementation of this project, i.e. the installation of the entire planned DVB-T equipment at 46 broadcasting stations of PE Macedonian Broadcasting is envisaged to finish in the period of one year after the completion of all preparation procedures.¹⁴⁸

On the other hand, the Government recommended to the Agency for electronic communication to announce a notification for operators' interest of the DVB-T digital network, which will operate in the Republic of Macedonia.

148 Website of the Ministry of Transport and Communications, http://mtc.gov.mk/new_site/mk/storija.asp?id=2986



The determined date for termination of television analogue terrestrial transmission of the programme services of the electronic media in the Republic Macedonia is June 1st 2013.

The 2011 European Commission Progress Report states that the preparations for initiation of the second generation of digital television are underway. Even though that there is progress in the approximation towards the European digitalization agenda, still the country only partially meets the requirements of EU in this area, according to the Report. The legislation is yet to be harmonized with the European Union' *Audiovisual Media Services Directive*.

Namely, the first digitalization Action Plan was adopted in 2007, as integral part of the Strategy for development of the broadcasting for the period 2007-2012,¹⁴⁹ which was prepared by the Broadcasting Council. The 2007 Action Plan, as part of the Strategy, envisaged that the first phase of the digitalization should be implemented at the beginning of 2008, thus preparing and adopting the legal regulation and the by-law regulation for introduction of DTT, i.e. digital broadcasting. In the document the necessity of amending the legal framework was emphasized. The legal framework should have provided experimental operation of digital multiplex, which should have been provided in clear, precise and transparent procedure. In the second phase, by the end of 2009, after creating legal conditions the operation of the multiplexes operators on national level were envisaged to start. The process should have started in Skopje, and then to spread in other regions throughout Macedonia. The current permits of the electronic media for analogue transmission should have been changed into permits for digital transmission. For the other interested subjects, new announcements should have been offered. In third phase, which was envisaged to last from 2009 until 2012, should have happened in the simulcast period, i.e. parallel transmission of analogue and digital signals. In this period, a campaign for equipping of the population with STB (set-top-box) devices was planned to be carried out. By the middle of 2011, the disconnection of analogue TV services according to regions should have started. The disconnection was according to the Action Plan, which should have been drafted by the National Coordinative Body for digitalization in cooperation with the Agency for Electronic Communications. In the fourth phase, i.e. by mid-2012, the Strategy envisaged rounding of the digitalization with entire disconnection of the analogue TV transmitters and enforcing of the operational multiplexes.¹⁵⁰

Namely, in 2007, when the Strategy of the Broadcasting Council was adopted, with the exception of the Macedonian Radio (part from PBS) the study infrastructure with most of the regional and local electronic media was not at technological level which would have provided us an entire use of the benefits from the transfer from analogue to digital broadcasting. Nevertheless, the commercial television started to operate on that issue and in 2011 two televisions emitted digital signal – TV Alfa and TV Kanal 5.

During the professionally organized dispute for this analysis, the representatives from the Agency for Electronic Communications pointed out that the digitalization in Macedonia is not late – the process is underway and functions. According to the experts, 8 multiplexes are reserved for the digital television in Macedonia, and in each one of them 8 programme services can operate. Hence, 64 programme channels can function with satisfactory quality of the signal.

According to the Law on Electronic Communications, two multiplexes are awarded to the Public Enterprise Macedonian Broadcasting. The PE Macedonian Broadcasting in cooperation with the PE

149 Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC

150 Ibid. Pg. 14-17



Macedonian Radio and Television, from the end of 2004 has an experimental transmission of one DVB-T multiplex with 4 programme segments and cover the central Skopje area.¹⁵¹ Thus, the Macedonian Broadcasting can have 16 programme services (in HD technology, one multiplex can contain 2,5 programme channels), with the obligation to transmit the national concessioners without compensation in the transition period (from analogue to digital signal). Three multiplexes were awarded to Boom digital terrestrial operator, as public communication network for retransmission of programme services. For instance, Boom manages to pack 11 programmes in 1 channel, but the quality of the picture is lower and there is no place for introduction of HD technology, for which Macedonia is yet to prepare. The rest 3 multiplexes will be awarded on public announcement to operator which will meet the given conditions.

Nonetheless, the impression of one the experts in the expert debate was that the digitalization was not recognized as public interest and there is no body which protects the viewers, in terms of quality of the signal, which follows the quality of the audio and visual signal. This depends on the degree of compression (how many programmes are in one multiplex). The representatives from the Agency for Electronic Communication informed that amendments to the Law on Electronic Communication were launched, in order AEC to be able to monitor the quality of the cable operators.

In Macedonia there are several operators of digital television: one DVB-T (Digital Video Broadcast – Terrestrial) operator with registered programme package is Boom, two DVB-S (Digital Video Broadcast – Satellite) operators – Total TV and Tring Max, as well as DVB-C (Digital Video Broadcast – Cable). In Macedonia IPTV operator (Internet Protocol Television) is Joint Stock Company Macedonian Telecommunications.

151 Broadcasting Council (2007) Strategy for Development of the Broadcasting Activity (2007-2012). Skopje: BC



RECOMMENDATIONS:

1) Conducting trainings for journalists and tech personnel in local, regional and other communities' media in the country, with the aim of improving the manner of production, the quality of news and the content offered to the audience.

2) The Broadcasting Council should regularly update data on the technical and technological equipment of the media on the basis of a mandatory notification for each change, as opposed to the record keeping of these data until now only when competing for a license to pursue broadcasting activity.

3) Digital protection of the overall archive (audio, visual, music and scene), complete record keeping and maintenance of the repositories of traditional costumes, uniforms, old weaponry and other requisites collected and used in various phases of programme production of MRT. They should be awarded the legal treatment of "national heritage". By means of projects of the Ministry of Culture, the remaining media should be also motivated to take care of their archives and to establish national standards of record keeping and maintenance.

4) Implementation of the digitization process as envisaged by the Action Plan of the Government, and within the set deadline until the year of 2013.

5) The media should create practices and channels through which they will involve the citizens to participate in the creation of contents or programme products, whereby one of the means could be by way of using information and communication technology (civil journalism, possibility to leave comments on Internet sites, the Internet sites to include blogs of journalists or editors, etc.)

6) Promotion and observation of the development of media literacy in all sectors of the society, as recommended by the AVMS Directive, as well as planned and continuous trainings on media literacy for various segments of the audience. The increase in media literacy in the society means gaining skills, knowledge and abilities that will enable citizens to effectively and safely use the media, but also other tools in conditions of ever greater offer of new communication products on the market. The increase in media and overall communication literacy is in direct correlation to the goals that Macedonia has set with the development of the information society.

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4. Roberto Belichanec, director of Media Development Center
5. Jane Jakimovski, manager of the radio and communication sector of the Agency for Electronic Communications
6. Biljana Ilieva, manager of the department for broadcast and satellite systems at the Agency for Electronic Communications
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9. Filip Medarski, lawyer (cases against journalists for defamation and offence)
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12. Ivana Cvetkovska, marketing, Nielsen Audience Measurement
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