

**#ReForMediaMKD**

**POLITICAL PLURALISM IN MEDIA REPORTING  
IN THE PERIOD OUTSIDE OF  
ELECTION CAMPAIGN**

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COMPARATIVE ANALYSIS OF THE MOST INFLUENTIAL PRIVATE TV CHANNELS AND PUBLIC SERVICE  
BROADCASTERS IN MACEDONIA, CROATIA AND GREAT BRITAIN

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# COMPARATIVE ANALYSIS OF THE MOST INFLUENTIAL PRIVATE TV CHANNELS AND PUBLIC SERVICE BROADCASTERS IN MACEDONIA, CROATIA AND GREAT BRITAIN

## POLITICAL PLURALISM IN MEDIA REPORTING IN THE PERIOD OUTSIDE OF ELECTION CAMPAIGN

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### 1. INTRODUCTION

The situation with the media in Macedonia in the past decade has been constantly deteriorating. This was most strikingly reflected in the biased, non-objective, often demonizing reporting by certain media with respect to the opposition and favouring the previous government. Some of those media had and still have a large share in the viewership, and thus exert a significant influence on shaping the public opinion, and in turn even on the election results.

Therefore, the question of how to prevent possible repetition of the practice of granting an exclusive and privileged position to certain political power centres, as well as spreading propaganda on certain political parties and ideological opinions through the media, is one of the key problems in the media sphere in Macedonia. During elections, fair, balanced and impartial reporting is a legal obligation of the public broadcasting service and commercial media, but the problem arises and chronically pervades, especially outside the election campaign.

Fair and diverse reporting, as well as the expression of the positions of different political and ideological groups, including the views and interests of minority groups through the media,<sup>1</sup> are some of the key professional and ethical standards that can contribute to achieving a political pluralism in the media. Political pluralism is a wider concept that refers to “the capacity and possibility of all social segments, with their likely diverse political/ideological views and interests to address/reach the public by means of the media”. The definition also covers “the spectre of political and ideological viewpoints, opinions and interests covered by and represented in the media.”<sup>2</sup>

Political pluralism incorporates several dimensions: legal, socio-demographic and economic. This research will focus on the legal aspects alone, that is, on the question of whether there is an effective legal framework and institutions in Macedonia, including regulatory and self-regulatory, which would effectively implement the legal and professional principles for encouraging and ensuring political pluralism in the media content, especially outside election campaigns.

The survey will offer an analysis of the manner in which the issue of political pluralism has been regulated and the ways it affects the media content, especially the news, on the five national terrestrial commercial TV channels and the public service broadcaster in Macedonia, compared to the mechanisms for encouraging political pluralism in Croatia and Great Britain. Certain professional standards aimed at fostering political pluralism in media reporting in Croatia have been regulated by the media laws, which is the reason this country with a close historical and political past was chosen as an example in the analysis.

<sup>1</sup> K. U. Leuven et All, *Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach*, European Commission Directorate-General Information Society and Media, Preliminary Final Report, Leuven, 2009. Available at: [https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final\\_report\\_09.pdf](https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final_report_09.pdf). Pg. 12.

<sup>2</sup> Ibid. Pgs. 34 -80.

Through the prism of the British media regulation model, although distinctly more complex and different, we illustrate the regulatory mechanisms for ensuring political pluralism in TV reporting in a country with a long democratic and media tradition.

The purpose of this research is to identify solutions and mechanisms in other countries that would be useful for encouraging and protecting political pluralism in the media content of commercial television channels and the public service broadcaster in Macedonia.

The text will outline European standards and principles pertaining to political pluralism, followed by a review of the legal framework for commercial television channels and the public service broadcasters in the course of and outside election campaigns, as well as the role of the regulatory and self-regulatory mechanisms for ensuring political pluralism in the media content of TV channels.

The research was conducted from April to October 2017, by analyzing the legal solutions in all three countries related to political pluralism, international documents and standards, research papers, surveys and analyses, reports and other publications prepared by national, regional and European media organizations, as well as secondary data from relevant sources. Moreover, seven interviews with experts from Macedonia (4), Croatia (1) and Great Britain (2) were conducted for the purpose of the research.

## 2. POLITICAL PLURALISM IN THE EUROPEAN MEDIA POLICY

Macedonia, as a member state of the Council of Europe and as a country with a candidate status for the European Union, is obliged to respect the recommendations and resolutions adopted by the Committee of Ministers of the Council of Europe and the European Union, which contain guidelines on media pluralism and diversity. Political pluralism is an essential aspect of media pluralism and a precondition for the safeguarding and performance of all democratic societies and for achieving well-informed citizenship.<sup>3</sup>

Some of the key documents are the *Recommendation (2007)2 on media pluralism and diversity of media content*,<sup>4</sup> as well as the *Recommendation (99)1 on measures to promote media pluralism*.<sup>5</sup> Bearing in mind the importance of the regulatory body in the promotion of media pluralism, the *Recommendation (2000)23 on the independence and functions of regulatory authorities in the broadcasting sector*<sup>6</sup> determines the essential guidelines that need to be implemented so as to ensure the independence of the regulator (appointment of members to this body and its functioning, financial independence, power and responsibilities, accountability to the public). With respect to all recommendations related to the media environment, it is important to acknowledge that most of them emphasize the importance of independence of the public service, especially through *Resolution no. 1 (1994) on the Future of Public Service Broadcasting*<sup>7</sup> and *Recommendation No. R(96)10 of the Council of Europe on the Guarantee of the Independence of Public Service Broadcasting*.<sup>8</sup>

This research will analyze the legal aspects of political pluralism elaborated in the study on “Indicators for media pluralism in member states”.<sup>9</sup> They assess the existence and effectiveness of regulatory mechanisms

<sup>3</sup> K.U. Leuven et All, *Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach*, European Commission Directorate-General Information Society and Media, Preliminary Final Report, Leuven, 2009. Available at: [https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final\\_report\\_09.pdf](https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final_report_09.pdf). Pg. 44.

<sup>4</sup> Council of Europe, *Recommendations and declarations of the Committee of Ministers of the Council of Europe in the field of media and information society*, Media and Internet Division Directorate General of Human Rights and Rule of Law, Strasbourg, July 2015. Available at: <https://rm.coe.int/1680645b44>. Pgs. 127-131.

<sup>5</sup> Ibid. Pgs. 82-85.

<sup>6</sup> Council of Europe, *Recommendation Rec (2000) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector*. Available at: [https://www.ebu.ch/CMSImages/en/leg\\_ref\\_coe\\_r2000\\_23\\_regulatory\\_au-thorities\\_201200\\_tcm6-4442.pdf](https://www.ebu.ch/CMSImages/en/leg_ref_coe_r2000_23_regulatory_au-thorities_201200_tcm6-4442.pdf).

<sup>7</sup> Council of Europe, *Recommendation Rec (2000) 23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector*. Available at: [https://www.ebu.ch/CMSImages/en/leg\\_ref\\_coe\\_r2000\\_23\\_regulatory\\_au-thorities\\_201200\\_tcm6-4442.pdf](https://www.ebu.ch/CMSImages/en/leg_ref_coe_r2000_23_regulatory_au-thorities_201200_tcm6-4442.pdf).

<sup>8</sup> Council of Europe, *Recommendation No. R (96)10 of the Committee of Ministers to member states on the guarantee of the independence of public service broadcasting*. Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?docu-men-tId=090000168050c770>.

<sup>9</sup> K. U. Leuven et All, *Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach*, European Commission Directorate-General Information Society and Media, Preliminary Final Report, Leuven, 2009. Available at: [https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final\\_report\\_09.pdf](https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final_report_09.pdf).

that, on one hand, allow access of different political actors and groups to the media, and on the other, protect the right of the public to be informed in a fair manner and on a wide spectrum of political views in society. In order to achieve political pluralism in the media sector there should be a constant balance between political influences and the editorial independence of the media. The risk of political bias can be managed through structural mechanisms, such as proportional representation of different political groups in the management or steering boards of media companies, and through standards of behaviour, such as fair, balanced and unbiased political reporting. The study refers precisely to *Recommendation (2007)2* which recommends the media to offer diverse media content to the public, so as to encourage critical debate and increase broad participation of persons belonging to all communities and generations.<sup>10</sup> In terms of the legal aspect, there are a number of risks to political pluralism,<sup>11</sup> among which are: the inability of the *regulatory framework* to prevent excessive or exclusive representation or promotion of political beliefs and ideologies of ruling parties in the media or to prevent the preferences of the editorial policy and the positive/propaganda coverage of selected political parties; the absence or insufficient media representation of certain political or ideological views and positions in society; the excessive presence of media financially dominated and governed by politicians and/or political parties; the inability of the regulatory and institutional system to prevent the ignoring of certain political groups and ideological communities in the public debate and elections, etc.

The media regulation in Macedonia, *de jure*, generally follows the European recommendations concerning political pluralism in television coverage, however problems arise in its application in practice. The legal provisions promoting political pluralism outside of election campaigns, with respect to commercial television channels and in the public service broadcaster, are contained in the Law on Audio and Audiovisual Media Services.<sup>12</sup> During election campaigns, the Electoral Code, which was amended in 2016 and contains a series of provisions that cover media representation and media conduct, is implemented.

Apart from the legal framework, the self-regulatory mechanisms in Macedonia contain principles that reflect the concept of political pluralism in the media. In 2001, a Code of Journalists of Macedonia, which contained professional and ethical standards that journalists and media should adhere to when reporting, was adopted. In 2014, the Council of Media Ethics of Macedonia (CMEM) that generally acts in cases of violation of professional and ethical standards in media reporting was established, and has been working ever since.<sup>13</sup>

However, from 2008 to 2016, Macedonia experienced a constant decline in terms of freedom of expression and media freedom, which was reported both by domestic and international media organizations.<sup>14</sup> The key point that cast a shadow over professional journalism in general was the unveiling of wiretapped conversations, or so-called „*bombs*“ by the opposition in early 2015,<sup>15</sup> which showed that certain media and their editorial policies were under direct or indirect pressure from the government. International Expert Missions in 2017 confirmed the impression that “the media outlets are politically affiliated or instruments of influential persons” and once again emphasized the division of the media along political and ethnic lines, and at the same time indicated the failure of journalists to do their job in accordance with the ethical standards, which “undermines the credibility of the profession”.<sup>16</sup>

<sup>10</sup> K. U. Leuven et All, *Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach*, European Commission Directorate-General Information Society and Media, Preliminary Final Report, Leuven, 2009. Available at: [https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final\\_report\\_09.pdf](https://ec.europa.eu/digital-single-market/sites/digital-agenda/files/final_report_09.pdf).

<sup>11</sup> B. Hrvatin, S., and Petkovic, B., „*Political Pluralism in the Media*” in Valcke, P., (Ed.), *Media Pluralism and Diversity*, 2015. Pg. 114-115.

<sup>12</sup> Law on Audio and Audio-Visual Media Services (2013), Official Gazette of the Republic of Macedonia (no. 184).

<sup>13</sup> Electoral Code, Official Gazette of the Republic of Macedonia (no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16 and 99/16). Art. 75, 76, 181, 182 and 183.

<sup>14</sup> Freedom House, „*Macedonia: Nation profile*”, 2017 и Reporters without Borders, „*Balkan's bad boy*”, 2017. Available at: <https://free-house.org/report/nations-transit/2017/macedonia> и <https://rsf.org/en/macedonia>.

<sup>15</sup> The illegally wiretapped conversations were made public by the opposition SDSM in February 2015, revealing scandalous information about election irregularities, pressure on the media, the judiciary and local and central government by the then ruling coalition led by VMRO-DPMNE.

<sup>16</sup> „*The former Yugoslav Republic of Macedonia: Assessment and recommendations of the Senior Experts' Group on systemic Rule of Law issues*”, 2017. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14\\_seg\\_report\\_on\\_systemic\\_rol\\_issues\\_for\\_publication.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf). Pg. 23.

The 2015 European Commission's report noted the need for proper implementation of the legal framework, expressing "serious concerns over selective reporting" in 2014 and underlined that "the public has access to objective and accurate reporting and variety of viewpoints through mainstream media, particularly the public service broadcaster".<sup>17</sup> The 2016 Report highlights the greater proactiveness of the regulatory body that had begun to address cases of hate speech and unprofessional reporting in the media.<sup>18</sup> The Commission had found a lack of balanced and diverse reporting by the mainstream media, however, it also acknowledged certain positive signals with respect to the public service broadcaster and some private TV channels in the summer of 2015.<sup>19</sup>

These assessments are due to the systematic establishment and strengthening of the corruptive-clientelist links of some media outlets to certain power centres, and their financing with money coming from the budget in a non-transparent manner through various mechanisms (government advertising, support for domestic production, etc.). This reflected on the economic situation of journalists who worked and are still working in an unfavourable media environment.

*"Owners are primarily interested in making more profit, and when it comes to state money, we cannot live under the illusion that their interest in getting some of that money will not affect the editorial policy. So, there is something that creates this dependence of the media and we cannot talk about professional media and respect for ethical standards by journalists and editorials, especially when it comes to the Chief Editors who design and implement the editorial policy, if such financial mechanisms still exist",* said Snezhana Trpevska, a media law expert.<sup>20</sup>

In 2017, in order to tackle the afore-stated criticism, the new ruling government in Macedonia prepared a new Draft Law on Audio and Audio-Visual Media Services. It proposes cancelling state advertising and budget assistance for domestic production and strengthening the independence of the regulatory body and the public service broadcaster, as agreed through consultations with the media community.

By comparison, the issue of political pluralism with respect to television stations in Croatia, from the aspect of political impartiality in presenting different political viewpoints, represents a low risk for the general development of media pluralism. According to the Media Pluralism Monitor in 2015, Croatia had legal mechanisms for fair, balanced and impartial representation of the political viewpoints with respect to the public service broadcaster, HRT, and there was no evidence of political bias, neither in the public service broadcaster nor in commercial television stations.<sup>21</sup> The 2016 Report, on the other hand, confirms the balanced representation of political actors in the public service broadcaster and the private and commercial channels and services, while the editorial autonomy was presented as the indicator with the highest risk.<sup>22</sup>

*"The media in Croatia are very careful about political pluralism because they know that they get points for this in the eyes of the public and thus provide greater visibility to their information programmes on the current affairs. And this is not so much the result of political pressure, as much as it is the result of economic pressure on the part of the advertisers,"* explains Mirjana Rakić, former director of the Croatian regulatory body Agency for Electronic Media.<sup>23</sup>

According to the 2016 Media Pluralism Monitor Report there is a low risk of political bias of the media reporting in Great Britain as well.<sup>24</sup> The effective implementation of legal provisions that prohibit political ownership of audiovisual media and radio, in practice, exerts no political control over them, and has a low risk for the independence of the management and financing of the public service broadcaster. There are legal provisions for fair and transparent appointment procedures in the management and steering

<sup>17</sup> European Commission, *The Former Yugoslav Republic of Macedonia Progress Report 2015*, Brussels. Available at: [https://ec.europa.eu/ neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_the\\_former\\_yugoslav\\_republic\\_of\\_macedonia.pdf](https://ec.europa.eu/ neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_the_former_yugoslav_republic_of_macedonia.pdf). Pg. 40

<sup>18</sup> Ibid. Pg. 41.

<sup>19</sup> Ibid. Pg. 19.

<sup>20</sup> Interview with Snezhana Trpevska, media law expert, Skopje, 19 April 2017.

<sup>21</sup> Media Pluralism Monitor, „Country report: Croatia“, October 2015. Available at: <http://monitor.cmpf.eu.eu/mpm2015/results/croatia/>.

<sup>22</sup> Freedom House, „Macedonia: Nation profile“, 2017 and Reporters without Borders, „Balkan's bad boy“, 2017. Available at: <https://free-domhouse.org/report/nations-transit/2017/macedonia> and <https://rsf.org/en/macedonia>.

<sup>23</sup> Interview with Mirjana Rakić, former director of the Croatian Agency for Electronic Media, Skopje, 16 November 2017.

<sup>24</sup> Media Pluralism Monitor, „Country report: United Kingdom“, July 2014. Available at: <http://monitor.cmpf.eu.eu/results-2014/uk/>.

board of the public service broadcaster that guarantee independence from government and other political influences. As in Croatia, the greatest risk to the political independence of the media exists with respect to the editorial autonomy.

Yet, experts believe that Great Britain has limited pluralism with regard to institutions and content, which should truly articulate the opposites and the full spectrum of votes in the public sphere. *“There is really strong competition in the print and online media, and the truth is that the broadcasting regulation (still) does not permit such a level of sensationalism and favouritism as Fox News in the UK. However, neither commercial television stations, nor the BBC are free from inclination towards ‘political centres’. This means that regarding the key reporting topics, such as: foreign affairs, domestic political parties, finance, defence, there is a tendency to privilege official sources, use “strange” experts, maintain generally accepted agendas, report on politics as something that happens in Parliament and discredits those who challenge the ‘status quo’. There are, of course, exceptions, especially when the elites are divided on a particular question, but the informative sphere in Great Britain has to go a long way before it can be considered truly independent from the elites and essentially plural in relation to the government,”* says Professor Des Freedman from Goldsmith, University of London.<sup>25</sup>

### 3. POLITICAL PLURALISM IN THE MEDIA CONTENT OF COMMERCIAL NATIONAL TV CHANNELS IN MACEDONIA, GREAT BRITAIN AND CROATIA OUTSIDE THE ELECTION CAMPAIGN

In the Macedonian legislation, the only provisions regarding political pluralism, which private TV channels *should* respect in the production of media content, are contained in the Law on Audio and Audiovisual Media Services. These are the principles that refer to “objective and impartial presentation of events with equal treatment of different views and opinions, thus enabling the audience to form their opinion on certain events and issues independently” (LAAVMS, Art. 61).<sup>26</sup>

These principles represent the professional and ethical standards that are in fact a broader framework that can ensure political pluralism in relation to media content. In cases of violation of these principles, the media regulation in Macedonia does not provide for measures or mechanisms that would influence the media to respect these provisions outside the election campaigns. However, practice shows that the national mainstream television stations, including the public service broadcaster, were often not consistent in respecting these principles, even grossly violating them in periods outside the election campaigns. Thus, within a period of six months (February - August 2016), six complaints were submitted for violation of Article 61 of LAAVMS with a total of 15 reports in the news editions on TV Sitel, one of which referred to the interview with the leader of the then opposition SDSM political party, Zoran Zaev.<sup>27</sup> The Agency found violations of a number of principles, including the principle of objective and unbiased presentation of events, with equal treatment of different views and opinions, and the opportunity for the public to freely form an opinion. In two ad-hoc supervision of news editions on TV ALFA<sup>28</sup> and one ad-hoc supervision of TV Kanal 5 news editions in 2016,<sup>29</sup> regulators found violations of the same principle.

The last report of the Institute for Communication Studies, published at the end of February 2017, concludes that two of the national commercial terrestrial TV channels, TV Telma and TV Alsat-M, continued to monitor the political developments from a neutral position and critically observed the work of the public institutions, while the news editions on TV Sitel, TV Kanal 5 and TV Alfa, maintained a favouring attitude towards the then ruling VMRO-DPMNE, and a demonizing attitude to the opposition SDSM.<sup>30</sup>

<sup>25</sup> Interview with Professor Des Freedman from Goldsmith, University of London, November 2017.

<sup>26</sup> Law on Audio and Audiovisual Media Services (2013), Official Gazette of the Republic of Macedonia (No. 184).

<sup>27</sup> One supervision was conducted by the Agency ex officio, while the others were conducted acting on petitions by the SDSM. Available at: <http://avmu.mk/2016-%D0%B3%D0%BE%D0%B4%D0%B8%D0%BD%D0%B0-14/>.

<sup>28</sup> AAVMS, “Written report on conducted programme surveillance on the work of TRD ALFA TV DOOEL Skopje on the petition of SDSM (no. 03-100/1 dd. 22 March 2016, no.03-1591/1 dd. 22 March 2016)”, 2016. Available at: [http://avmu.mk/wp-content/uploads/2017/05/20160415155330432-Tv\\_Alfa.pdf](http://avmu.mk/wp-content/uploads/2017/05/20160415155330432-Tv_Alfa.pdf).

<sup>29</sup> AAVMS, “Written report on the performed programme supervision on the work of TRD KANAL 5 DOOEL Skopje on the petition of SDSM (no. 03-100/1 dd. 22 March 2016)”, 2016. Available at: <http://avmu.mk/wp-content/uploads/2017/05/20160415155109776-Kanal5.pdf>.

<sup>30</sup> ICS, “Report from the monitoring of the television news edition (MODEM)”, 13-17 and 20-24 February 2017. Available at: <http://res-publica.edu.mk/attach/MODEM-izvestaj-fevruari-MK.pdf>. pg. 8-9.

Ensuring political pluralism in the contents of commercial media during their overall work, and not only during election campaigns when they are under increased monitoring and are subject to sanction, is a matter that has been debated for a long time in the media community in Macedonia.

Prior to the Parliamentary elections and the change of government in 2016, there was a public debate on the amendments to the Law on Audio and Audiovisual Media Services (2013), which incorporated a proposal for the new members in the regulation for the protection of political pluralism in the news and in the current affairs programmes outside the election campaigns, including sanctions provided in the event of their violation. However, in the latest version of the draft law of December 2017, these articles were erased under the pressure of the media community, which upheld the opinion that “the professional ethics of journalists should be solved by self-regulation, the journalists and the media themselves should find a mechanism to increase the responsibility of the media, and not be imposed by the state with laws.”<sup>31</sup> There is concern that if this article and sanctions remain, they would have “threatening effects on the freedom of the media and the freedom of speech, enforce constant self-censorship and crush criticism in the media.”<sup>32</sup>

The representation of different political views is an issue related to the ethical standards and it is quite delicate to put it into a law as an obligation and a sanction. Fears of media associations about resolving the issue of political pluralism via a law, and especially about the idea of imposing sanctions, originate from the possible abuse of the regulation by any and all governments in the future, which would have the opposite effect.

Experts suggest considering the possibility of additional clarification of this issue with special provisions, as is the case in other countries, because at the moment, political pluralism in Macedonia is most often associated with Article 61 of LAAVMS.

According to Snezhana Trpevska, a media law expert, it is wrong to believe that in order to protect political pluralism, sanctions should be introduced in Article 61 in LAAVMS: “*This article contains the general principles on which the programmes are based incorporating the basic ethical and professional principles of journalism. The regulator must not be the one who will sanction the violation of the principles, as was the case with the introduction of the ad hoc body in the months before the official start of the campaign for the 2016 parliamentary elections. It is necessary to consider introducing two or three new provisions in the Law that would relate only to the quantitative aspects of balanced reporting on different political entities, as is the case in France, for example. But this should be considered seriously, so as to see the advantages and disadvantages of such provisions.*”<sup>33</sup>

The French media regulation foresees monitoring political pluralism in the television and radio programmes, with the regulator monitoring the quantitative representation of the parliamentary majority, the opposition, the government, the president and other parliamentary and non-parliamentary parties, quarterly (in the news) and semi-annually (in magazines and other types of shows).

However, if the regulation of this segment commences outside the electoral campaigns in the Macedonian legislation, changes in the law should be made in order to establish the precise criteria and methodology for assessing political pluralism.

The Croatian model of regulation of political pluralism is based on the Law on Electronic Media, which contains provisions<sup>34</sup> for publishing truthful information and contributing to the viewers to form their opinion freely, comprehensively and objectively. The criteria that audiovisual programmes should fulfil are accurate presentation of the events, and the different approaches and opinions have to be adequately represented, the news must truthfully and accurately inform about the events, they have to be impartial and professional and encourage the audience to form their opinion freely, while opinions and comments

<sup>31</sup> TV Kanal 5, “*ISHS-AJM: The state should not interfere in the work of the media*”, 22 November 2017. Available at: [http://kanal5.com.mk/vesti\\_detail.asp?ID=138568](http://kanal5.com.mk/vesti_detail.asp?ID=138568).

<sup>32</sup> Naser Selmani, president of the Association of Journalists of Macedonia, TV Kanal 5, “*ISHS-AJM: The state should not interfere in the work of the media*”, 22 November 2017. Available at: [http://kanal5.com.mk/vesti\\_detail.asp?ID=138568](http://kanal5.com.mk/vesti_detail.asp?ID=138568)

<sup>33</sup> Interview with Snezhana Trpevska, media law expert, Skopje, 19 April 2017.

<sup>34</sup> Zakon o elektroničkim medijima, NN 153/09, 84/11, 94/13 and 136/13. Art. 25. Pg. 1, 2.

must be easily recognizable (Art. 25, para. 1). Directors are obliged to encourage impartiality in programmes, respect differences of opinion on political or economic issues or on current public policy (Art. 25, para. 2). Unlike the Macedonian media legislation, the Croatian Law on Electronic Media contains sanctions for the legal entity if the media does not meet the prescribed criteria in these two provisions in their programmes and content, which range from 13,400 to 134,000 euros (Art. 82, para. 11). Nevertheless, this article rarely applies, and the penalty has never been pronounced.<sup>35</sup>

The UK Ofcom Broadcasting Code<sup>36</sup> has a whole chapter regarding the *impartiality and accuracy of attitudes and opinions in television programmes*. According to the Code, the regulator is obliged to publicly announce the violation of the provided rules and regulations by a particular television station, and when the violation occurs intentionally, seriously or if it is repeated, then the Code provides for legal sanctions in the form of a fine or license revocation. The regulatory body in the UK has extensive powers in determining the *amount of the fine for the television stations*.

**Table 1: Comparative overview of the legislation regulating political pluralism of commercial television channels and public service broadcasters**

	MACEDONIA	CROATIA	GREAT BRITAIN
Commercial TV channels	<b>Law on Audio and Audio-Visual Media Services</b> Article 61	<b>Law on Electronic Media</b> Article 25, paragraph 1, 2 <sup>37</sup>	<b>Ofcom Broadcasting Code</b> Section 5: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions  Due Impartiality and Due Accuracy in News Special impartiality requirements: news and other programmes
	<b>Violation sanctions</b>		
	N/A	<b>Law on electronic media</b>  1. Sanction fine (13,400-134,000 euro)* *rounded  2. Ban for conducting business activities and initiating a procedure before the authorized body on the temporary confiscation of equipment, devices, products and material used in conducting the business activity	<b>Procedures on the legal broadcasting sanctions</b>  1. Guidelines for prevention repetition of the programme or advertisement  2. Guidelines for broadcasting a correction or statement on the findings of Ofcom that the broadcaster should air in the programme as outlined and in the time determined by the regulator.  3. Fine  4. Terminating or suspending the license.  5. Revoking the license.
	<b>Sanctions decision maker</b>		
	/	Electronic Media Council	Two senior representatives of the Ofcom Executive Board + Non-executive member of the Ofcom Content Board

<sup>35</sup> Interview with Zoran Trajchevski, Director of the AAVMS, Skopje, 13 April 2017.

<sup>36</sup> The Ofcom Broadcasting Code with the Cross-promotion Code and the On Demand Programme Service Rules, April 2017. Available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>.

<sup>37</sup> Zakon o elektroničkim medijima, NN 153/09, 84/11, 94/13 and 136/13.

#### 4. REGULATORY FRAMEWORK OF POLITICAL PLURALISM IN THE PUBLIC SERVICE BROADCASTER IN MACEDONIA, GREAT BRITAIN AND CROATIA

The public service broadcaster Macedonian Radio-Television is legally obliged to respect the standards and principles aimed at improving political pluralism in the programme content, and its responsibilities are more stringent compared to the private service broadcasters.

MRT is obliged to abide by the principle of truthfulness, impartiality and comprehensiveness of information in its programmes, ensure political balance and pluralism of views, provide impartial comprehensive and important information and present them clearly and impartially, so that the citizens can freely form their own opinion.<sup>38</sup> The public service broadcaster must not represent or foster the views or interests of a particular political party, association, personal interest, religion or ideology, and it should equally respect the opinion of others in its programmes.<sup>39</sup>

The Programme Council in MRT, as the highest steering body of the PSB, has the authority to monitor the realisation of the programme obligations, principles and standards defined in this Law, and in case of non-compliance warn the director, and request of him/her to terminate the programme broadcasting (LAAVMS, Art. 124, para. 1). This body should monitor the reactions of the audience in relation to the broadcast programme of MRT and accordingly, in writing, request the Director of MRT to adjust the scope, structure and overall quality of the programme content (Art. 124, para. 1). Still, certain activities of the Programme Council in fulfilling this legal and a statutory<sup>40</sup> obligation of the Programme Council can not be confirmed, since the records of the meetings of this body are not publicly available on MRT's website.

*“The Programme Council, as the main body in MRT, has all legal obligations to ensure the protection of objectivity, impartiality and balance with respect to the informing by the MRT. Unfortunately, it has not yet assumed any of the competences it has in the direction of improving the quality of MRT's programme”,* says the MRT Programme Council member Vedat Mamedalija.<sup>41</sup> He underlines that this body has not done anything in relation to the *“scandalous informing by the MRT on the events of 27 April 2017, in the Assembly.”*<sup>42</sup>

In this case, the Agency for Audio and Audiovisual Media Services reacted with a letter to the MRT Programme Council on the reporting of the public service broadcaster,<sup>43</sup> in which it indicated that it did not provide timely information on the events in the Assembly, that certain parts of the live reporting from the scene were not in compliance with the role and function of the PSB, and that there were no information programmes to debate the events which were of exceptional public interest. At the request of Mamedalija, the Programme Council called an urgent session to which reports from the editors-in-chief and directors were requested to provide reports regarding the correspondence sent by the regulator to the members of the MRT Programme Council, but the session was closed to the public on the grounds that otherwise the editors would be under pressure.<sup>44</sup>

According to the law, in case of violation of the legal obligations outside the election campaign there is no sanction for the public service broadcaster. In establishing the violations of these principles, the Agency may notify the public and the medium through a press release. *„It might be necessary to introduce obligations, not principles, for a certain period of time, whose disregarding would entail a sanction. If the assessment is done outside the election campaign, this will put both the public service broadcaster and the commercial television channels in the same basket,* “explains Zoran Trajchevski, Director of the AAVMS.<sup>45</sup>

<sup>38</sup> Law on Audio and Audio-Visual Media Services (2013), Official Gazette of the Republic of Macedonia (no. 184). Art. 111.

<sup>39</sup> Ibid.

<sup>40</sup> Statute of the PSB MRT, January 2015. Available at: <http://mrt.com.mk/sites/default/files/CTATYT%20на%20Јавно%20радиодифузно%20претпријатие%20Македонска%20радио-телевизија.pdf>. Art. 40.

<sup>41</sup> Interview with Vedat Mamedalija, member of the Programme Council of MRT, on the proposal of the Association of Journalists of Macedonia, Skopje, 24 May 2017.

<sup>42</sup> On 27 April 2017, a large group of citizens stormed into the Parliament and attacked the leader and members of the governing coalition SDSM and DUI, for, according to them, the inappropriate voting procedure for selecting the President of the Assembly. The public service broadcasters did not report on this event while it was unravelling.

<sup>43</sup> AAVMS, “Correspondence to the Programme Council of MRT”, 3 May 2017. Available at: [http://avmu.mk/wp-content/uploads/2017/05/Dop-is\\_do\\_Programski\\_sovet\\_na\\_MRT.pdf](http://avmu.mk/wp-content/uploads/2017/05/Dop-is_do_Programski_sovet_na_MRT.pdf).

<sup>44</sup> Ibid.

<sup>45</sup> Interview with Zoran Trajchevski, Director of the AAVMS, Skopje, 19 April 2017.

The Law on the Croatian Radio and Television (HRT) requires the public service broadcaster to respect the principles and standards of political pluralism in reporting (Article 7 paragraph 1, items 1, 2, 3), as well as the ethical principles and professional standards for independent journalism (Article 7).<sup>46</sup> The HRT Programme Council has an obligation to monitor the implementation of the programme principles and obligations set forth in the Law and to submit a written warning to the Management and the Editor-in-Chief in the event of their violation, and forward a warning to the Supervisory Board for inspection.<sup>47</sup>

The situation with political pluralism in the public service broadcaster in Great Britain is characterized by two stages. By 2016 this issue was regulated separately from commercial broadcasters and was characterized by a mixed media regulation system - Ofcom was responsible for the private media, and BBC Trust for the Public Service Broadcaster – the BBC. The issue of political pluralism, which is reflected in the principles of *accuracy and impartiality* in reporting with respect to the public service broadcaster, was under the authority of the BBC Trust.<sup>48</sup> The British public service broadcaster has also developed Editorial Guidelines,<sup>49</sup> not conditioned by sanctions, rather than by ethical principles, that all employees have to respect.

From 3 April 2017, the regulation of the public service, including the issue of accuracy and non-bias in media content, as principles reflecting the concept of political pluralism, is subject to regulation by Ofcom and the Broadcasting Charter.<sup>50</sup> In regulating the BBC, Ofcom focuses on three core areas: content standards, protection of fair and effective competition, and a review of BBC's performance. BBC's Board<sup>51</sup> is responsible about the manner of accomplishing their mission and goals, including those for impartial and accurate reporting. The board additionally adopts editorial guidelines. Ofcom has the authority to change the amount of the fee as a measure that would deter the media from disrespecting the standards and possible sanctions.<sup>52</sup> This is still a new practice, the effects of which need to be further analyzed.

**Table 2: Comparative overview of the legislation regulating political pluralism of public service broadcasters**

	MACEDONIA	CROATIA	GREAT BRITAIN
Public Service Broadcaster	<p><b>Law on Audio and Audio-Visual Media Services</b></p> <p>Article 110 Obligations of the MRT with respect to the broadcasted programmes and programme services</p> <p>Article 11 Standards and principles<sup>53</sup></p>	<p><b>Law on the HRT</b></p> <p>Article 7 (1) Responsibilities of the HRT</p> <p>Article 26 (1) Council of the HRT<sup>54</sup></p>	<p><b>2017 Ofcom Broadcasting Code</b></p> <p><b>Section 5: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions</b></p>

<sup>46</sup> Zakon o hrvatskoj radioteleviziji, NN 137/2010. Art. 7, para. 2.

<sup>47</sup> Ibid. Art. 26, para.1, line. 1.

<sup>48</sup> BBC Trust is the equivalent of the MRT Programme Council and the HRT Programme Council. The basis for respecting the programme standards have been established in accordance with the Royal Charter and the Agreement between the Ministry of Culture, Media and Sport and the BBC.

<sup>49</sup> BBC, *Editorial Guidelines*. Available at: <http://www.bbc.co.uk/editorialguidelines/guidelines>.

<sup>50</sup> Royal Charter for the continuance of the British Broadcasting Corporation, Presented to Parliament by the Secretary of State for Culture, Media and Sport by Command of Her Majesty December 2016; and Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, December 2016. Available at: [http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_govern/2016/agreement.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_govern/2016/agreement.pdf).

<sup>51</sup> Ibid.

<sup>52</sup> Ofcom, Penalty guidelines, 14 September 2017. Available at: [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0022/106267/Penalty-Guidelines-September-2017.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0022/106267/Penalty-Guidelines-September-2017.pdf).

<sup>53</sup> Law on Audio and Audio-Visual Media Services (2013), Official Gazette of the Republic of Macedonia (no. 184).

<sup>54</sup> Zakon o hrvatskoj radioteleviziji, NN 137/2010. Available at: <https://www.zakon.hr/z/392/Zakon-o-Hrvatskoj-radioteleviziji>.

## 5. REGULATING POLITICAL PLURALISM IN TELEVISION INFORMING DURING ELECTION CAMPAIGNS IN MACEDONIA, CROATIA AND GREAT BRITAIN

During election campaigns in Macedonia, the situation regarding the issue of political pluralism is generally defined in the Electoral Code, which sets the framework for media reporting and representation, despite the fact that there are several remarks regarding the given solutions.

The Law obliges the media to inform in a fair, *balanced and impartial manner* in their overall programme, i.e. to provide the participants in the campaign with equal conditions for access to all forms of electoral media presentation - news, special informative programmes, free airtime and paid political advertising (Article 75).<sup>55</sup> The public service broadcaster, according to the Electoral Code (Article 76-a), should allocate the time for informing about the activities of the campaign of the political parties in accordance with the principles of balanced reporting and the adopted Rules for balanced political media representation, in consultation with the participants in the election process and the Agency for Audio and Audiovisual Media Services. The regulator is in charge of monitoring the electoral media presentation, via the prepared Methodology for monitoring the radio and television programme services (Article 76).

From the submitted daily reports of the Agency to the State Election Commission regarding the monitoring of the media in the election campaign of the early parliamentary elections in December 2016, it can be concluded that MRT did not violate Articles 75 and 76 of the Election Code referring to the principles for fair, balanced and impartial reporting, unlike the national commercial TV channels TV Alfa, TV Alsat-M, TV Sitel and TV 24 Vesti.<sup>56</sup> The situation was confirmed in the report of the OSCE/ODIHR observer mission.<sup>57</sup> MODEM's report also concludes that three of the terrestrial national televisions channels, during the campaign for the parliamentary elections in December 2016, had non-critical reporting and favoured VMRO-DPMNE, one TV channels tried to reflect the political diversity in a balanced manner, while the public service broadcaster MRT was the only one to cover the activities of all political parties that participated in the elections, with the remark that no topic was opened.<sup>58</sup>

The Director of the Agency, Trajchevski, explains that during the elections, even the penalties provided for in the Electoral Code are not reason enough for the media to inform in a balanced, fair and impartial manner. *"It is questionable if greater penalties and fines would make the media obey the law, or if somebody considers that disregarding the Electoral Code, i.e. providing balanced reporting during elections, is a calculated expense in their work./.../ Currently, the fines are the same for all media"*, adds Trajchevski, explaining that the Agency proposed amendments to the regulation with respect to imposing penalties proportional to the size and impact of the media.<sup>59</sup>

However, during the pre-election campaign in 2016 and in the course of 2017, certain improvements were acknowledged in the reporting of some media, in contrast to the uncritical reporting that was evident over the years in the past.

According to the Croatian Electronic Media Law, television channels must allow all political parties to be promoted under equal conditions, in accordance with the election rules and guidelines of the competent body that monitors and organizes the elections.<sup>60</sup> For disregarding these rules there is a fine. Amending the legal provisions for electoral media representation was also made in the framework of the Rules for acting of the electronic media with a national license during the election campaign. Ad-hoc bodies of media companies and their election tracking rules play an important role in the election process.

<sup>55</sup> Electoral Law, Official Gazette of the Republic of Macedonia (no. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16 и 99/16). Art. 75, paras. 1 and 2.

<sup>56</sup> AAVMS, *Daily reports of the Agency for Audio and Audio-Visual Media Services*. Available at: <http://www.sec.mk/dnevni-izvestaji-na-agencijata-za-audio-i-audiovizuelni-mediumski-uslugi/>.

<sup>57</sup> OSCE, *„Republic of Macedonia Early Parliamentary Elections, OSCE/ODIHR Election Observation Mission Final Report"*, Office for Democratic Institutions and Human Rights, Warsaw, February 2017. pg. 20-21. Available at: <http://www.osce.org/mk/odhr/elections/fyrom/302261?download=true>.

<sup>58</sup> IKS, *"Report from the monitoring of the reporting on the election campaign in the television news editions"*, 30 November - 9 December 2016. Available at: <http://respublica.edu.mk/attach/MODEM/dek/MODEM-izvestaj-dekemvri-MK.pdf>. pg. 3.

<sup>59</sup> The position of the Agency regarding the fines, presented at the first public meeting of the Agency in March 2017, is to determine the amount of the fines for different categories of media and for different levels of broadcasting, doubling the existing amount of fines for unbalanced and biased coverage of the election campaign with respect to the national media, and a double reduction in the amount of all fines for regional and local media. Available at: <https://www.youtube.com/watch?v=RN5TiFIz3o>.

<sup>60</sup> Zakon o elektroničkim medijima, NN 153/09, 84/11, 94/13 and 136/13. Art. 36.

The legislation governing elections in Great Britain is complex, extensive and fragmented. The relevant legislation includes the 2003 Communications Act, the BBC Charter and Agreement, as well as the European Convention on Human Rights. Broadcasters should also have regard to relevant section of the Representation of the People Act, as well as other legal regulations and bylaws. Within the Ofcom Broadcasting Act there is a chapter on the elections and a referendum, which defines the general principles of media coverage of political parties during the elections.<sup>61</sup>

## 6. THE ROLE OF THE REGULATORY BODY IN ENSURING POLITICAL PLURALISM OF THE TELEVISION CHANNELS IN MACEDONIA, GREAT BRITAIN AND CROATIA

The Agency for Audio and Audiovisual Media Services in Macedonia has an obligation to ensure the protection and foster pluralism of the audiovisual media services, as well as to encourage and support the existence of diverse, independent and self-governing audiovisual media services. In order to effectively fulfil these obligations, the key factor is to allow the regulator to be independent from the political power centres.

Regarding the violation of the principles of Article 61 of the LAAVMS outside the election campaigns, the duties of the Agency are reduced to monitoring the media, reacting and reporting to the public and the media, but the regulator has no sanctioning mechanisms.

The Agency performs regular programme supervision of the fulfilment of the programme obligations of the television channels according to a previously adopted methodology and the annual plan for programme supervision. The 2016 and 2017 Annual Plans of the Agency did not include the articles of the Law that refer to non-biased, objective reporting with equal treatment of different positions.<sup>62</sup> According to Trajchevski, the reason behind this is the announcement of the early parliamentary elections in 2016 and the Local elections in 2017, since political pluralism is assessed during the election campaigns, when constant monitoring is carried out, which is sufficient for assessing pluralism.<sup>63</sup> The Regulator also conducts an ad-hoc supervision of the programmes, which is carried out on the basis of the filed petition by a state body, natural or legal persons and ex officio, if there is suspicion of a misdemeanour. Respecting political pluralism in the reporting of commercial TV channels is not subject to regular supervision. As there are no penal provisions for commercial television channels breaching these principles, therefore the Agency cannot impose a measure of violating the broadcasting standards.

The articles of the Law referring to the standards and principles of political pluralism in reporting in the public service broadcaster (Articles 110 and 111), are also not subject to regular supervision, as according to the Methodology, the MRT Programme Council is in charge of monitoring these provisions,<sup>64</sup> which, in turn, does not have enough capacities, with respect to the expertise and resources, to monitor the programme contents. Accordingly, these principles and standards are exclusively subject to ad-hoc supervision by the Agency. The regulator analyzed political pluralism in the TV news of the public service broadcaster only from 2010 to 2012, but has since ceased to do so.

A very sensitive and questionable issue is whether the media could be encouraged to obey the obligations for impartial and objective reporting with equal treatment of views, if the Agency is given greater authority than those currently available - to indicate and react to a committed offense.

The director of the Agency, Zoran Trajchevski, says that if the regulation of political pluralism goes beyond the elections, the focus should be on the national televisions and radio stations that have informative current affairs programmes. Referring to the developments in the past period, he believes that it would be necessary to have a certain period of time when AAVMS would have the power to issue warnings, and afterwards even misdemeanours with the possibility of temporarily revoking the license: “/.../ In a precisely

<sup>61</sup> The Ofcom Broadcasting Code, “Section Six: Elections and referendums”, 3 April, 2017. Available at: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>.

<sup>62</sup> AAVMS, *Programmes and reports on the work*, 2016 and 2017. Available at: <http://avmu.mk/програми-и-извештаи-за-работа/>.

<sup>63</sup> The parliamentary elections were announced twice in the course of 2016, and they were held on 11 December 2016. The regulator performed monitoring for over 200 days in the course of the year.

<sup>64</sup> AAVMS, *Methodology for performing programme supervision*, 2014. Available at: [http://avmu.mk/wp-content/uploads/2017/05/Methodologija\\_za\\_vrshenje\\_programski\\_nadzor\\_monitoring.pdf](http://avmu.mk/wp-content/uploads/2017/05/Methodologija_za_vrshenje_programski_nadzor_monitoring.pdf).

determined period of 5 years, the AAVMS should be in charge of sanctions for non-compliance with specific provisions of the Law. If the goal is achieved, then it should be subject to self-regulation. /.../ The authority to impose the most serious penalty for the suspension of the license should be held by the Council of the AAVMS".<sup>65</sup>

Still, the sanctions are a very unpopular measure that could lead in an unwanted direction, especially in countries like Macedonia where the partisanship of institutions and corruptive-clientelist relations have been widespread, especially in the past period. Therefore, the possible overlapping of the powers and scope of intervention of the regulator can only be good if it is independent, but it would not be right if the regulator were subject to political and commercial interests.<sup>66</sup>

Professor Trpevska underlines that the broader picture and the role of the regulator should be taken into account: *"The place of the regulator, position, competencies and independence are crucial because the main mission of the regulator is to take care of the existence of diverse and independent media. And, the independent media would be independent if they are independent in terms of ownership and if the financial mechanisms provide them with independence"*. She adds that the authority of the regulator regarding the monitoring of the ownership structure should also be much clearer and more precise. However, ultimately it depends on the democratic capacity of the governing structures.<sup>67</sup> These are all important "pieces of the puzzle" to ensure political pluralism in the media content.

The Council of the Agency for Electronic Media of Croatia implements the provisions related to the protection of political pluralism and the diversity of the electronic media, controls the fulfilment of the program principles and obligations and in that respect adopts an annual monitoring plan. However, apart from having the right to issue a reprimand for non-compliance with the legal provisions, the Croatian regulator, unlike the Agency in Macedonia, can also submit a proposal for a misdemeanour procedure, according to the laws and regulations.<sup>68</sup>

*"The regulator in Croatia has a very professional monitoring department, which receives appeals from citizens. It is very important for the regulator to have a strong oversight service, to keep it under control and to respond to citizens' reports. When those appeals are targeted all the time in one direction, then something has to be changed. If a violation of the Law is found, they immediately react and the media gets a warning,"*<sup>69</sup> says Mirjana Rakić, former director of the Croatian Agency for Electronic Media.

The regulatory body in Great Britain, on the other hand, has the duty to set, review, and periodically revise the programme standards of television channels. In that respect, they prepare guidelines for the implementation of the laws, as well as additional guidelines for regulating specific issues, such as the Procedure for reviewing legal sanctions for registered violations by licensed broadcasters.<sup>70</sup> The Ofcom regulator is in charge of conducting the complaints procedure submitted for disrespecting the accuracy, impartiality and equal treatment of different views of TV coverage. If the regulator decides that there has been a violation of the standards of the 2003 Communication Act, then the option of legal *sanctions* against the broadcaster is considered.

According to Des Freedman of Goldsmith University of London, the regulator should have regulatory powers/authorities and sanctions in the event of violations of professional and ethical standards: *"They must, of course, be aligned and applied in a transparent way, so it does not appear a particular (media) organization is favoured or sanctioned. I think the sanctions are quite appropriate and they should be determined depending on the size of the offense and the company's income. Repeated violations should be taken very seriously, if they (the media o.n.) show continuous refusal to respect the professional and ethical standards. Also, there should be an easily accessible and simple procedure for the public to file complaints ..."*<sup>71</sup>

<sup>65</sup> Interview with Zoran Trajchevski, Director of the AAVMS, Skopje, 13 April 2017.

<sup>66</sup> Interview with Justin Schlosberg, lecturer at Birkbeck, University of London, Skopje, 17 January 2018.

<sup>67</sup> Interview with Snezhana Trpevska, media law expert, Skopje, 19 April 2017.

<sup>68</sup> Zakon o elektroničkim medijima, NN 153/09, 84/11, 94/13 and 136/13. Art. 69.

<sup>69</sup> Interview with Mirjana Rakić, former director of the Croatian Agency for Electronic Media, Skopje, 16 November 2017, Skopje.

<sup>70</sup> Ofcom, *Procedures for the consideration of statutory sanctions in breaches of broadcast licences*, April 2017. Available at: [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0030/71967/Procedures\\_for\\_consideration.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0030/71967/Procedures_for_consideration.pdf).

<sup>71</sup> Interview with Professor Des Freedman from Goldsmith, University of London, November 2017.

In the European Union, however, there is a trend to replace the legislation with more specific policies, which would address the dynamic and convergent information environments. „*Competences and scope in terms of regulating pluralism should be determined depending on the size of the media brand or group (as defined through the audience reach through different platforms), as well as through the dominant role they play in the information environment,*” adds Justin Schlossberg, lecturer at Birkbeck, University of London.<sup>72</sup>

## 7. THE ROLE OF THE SELF-REGULATORY BODY IN ENSURING POLITICAL PLURALISM OF TELEVISION CHANNELS IN MACEDONIA, GREAT BRITAIN AND CROATIA

The self-regulatory body is a key actor that should function complementary with other relevant stakeholders, in order to effectively promote political pluralism in the media content in Macedonia. Many developed democracies of European Union member states base their media regulations on the issue of political pluralism on standards and principles, giving priority to self-regulatory bodies, before any other legal sanctioning.

The Council of Media Ethics of Macedonia (CMEM) has been functioning since 2014, basing its activity on determining public moral sanctions for those media that do not respect the professional and ethical standards of the Code of Journalists and the Principles of the International Federation of Journalists.<sup>73</sup> The Press Complaints Commission, functioning as an advisory body which reviews complaints and makes decisions regarding non-compliance with the professional standards in reporting is a part of the Council.

The Code of Journalists of Macedonia that the CMEM follows contains principles that reflect the concept of political pluralism in the media content.<sup>74</sup> The section on Principles of Behaviour emphasizes that journalists are obliged to prevent censorship and distortion of news, foster pluralism of ideas and attitudes, contribute to the strengthening of the rule of law and the control of power. The Code states that the journalist should publish accurate, verified information and not withhold essential data or falsified documents (Art. 1), regulates the issue of political discrimination (Art. 10) and underlines that “reporting about political processes, especially the elections, should be unbiased and balanced, and the journalist should maintain professional distance from the political subjects” (Art. 14).

The Appeals Commission of the Council for Ethics in the Media in Macedonia received 138 appeals by 2017, referring to incorrect or misleading reporting, concluding that “the other side of the story” was almost absent in the texts.<sup>75</sup> The general conclusion is that the decline in the quality of media coverage in Macedonia is primarily due to not covering the story of the other party, that is, not giving the opportunity for all stakeholders to express their views and position in the journalistic text. This is the reason behind the imbalance, and the inaccuracy in media reporting...<sup>76</sup> This body has often dealt with cases in which it has been established that the Code had been violated on grounds of political discrimination or political imbalance. „11 complaints of citizens or politicians who complained that the media reported unilaterally, did not provide the other side of the story or, unreasonably insulted or blamed politicians or journalists, reached the Commission.”<sup>77</sup> Regarding the biased and unbalanced reporting on political and electoral processes (Art. 14), there had been 32 violations in the period 2014-2017.<sup>78</sup>

CMEM Director, Marina Tuneva, said that there has been an improvement with respect to accepting the Council’s decisions, in the sense that those media that advocate to work professionally taking care of their professional integrity, show attempts to get involved in the process of self-regulation. “/.../ *More and more cases of unprofessional reporting that include violation of the principles of impartiality, objectivity, balance and other principles are being reported,*”<sup>79</sup> states Tuneva. For CMEM, the position of the self-regulatory body can be reinforced if the media continue or openly support them in their work, but also if other relevant bodies and institutions begin to function properly, assume their responsibilities and react.

<sup>72</sup> Interview with Justin Schlosberg, lecturer at Birkbeck, University of London, Skopje, 17 January 2018.

<sup>73</sup> Council of Media Ethics of Macedonia, web-page. Available at: <http://semm.mk/sovet-za-etika/za-nas>.

<sup>74</sup> *Code of Journalists of Macedonia*, 2001. Available at: [http://znm.org.mk/?page\\_id=1412](http://znm.org.mk/?page_id=1412).

<sup>75</sup> Interview with Marina Tuneva, CEO of the Council of Media Ethics of Macedonia, Skopje, 18 April 2017.

<sup>76</sup> SEEM, *Reporting in the interest of the public – Protecting the ethical principles of reporting through the work of the Commission for appeals and petitions*, 2017. Available at: <http://www.semm.mk/attachments/izvestuvanje-vo-interes-na-javnosta.pdf>.

<sup>77</sup> Ibid. pg. 22.

<sup>78</sup> Interview with Marina Tuneva, CEO of the Council of Media Ethics of Macedonia, Skopje, 18 April 2017.

<sup>79</sup> Ibid.

“The regulator has their responsibilities for overseeing the programme content in the media and there is plenty of room to respond. It then reports cases to the Public Prosecutor’s Office, where they are often stuck. This chain of actions, of which we are a part of, should function well. /.../ We do not need to make a hybrid that suits the system, we need a mechanism that will meet the needs. Even if we reach this level, it is a question of whether such a thing will function,” says Tuneva. According to her, when it comes to political pluralism, objectivity, impartiality and balance, the biggest problem is that the media does not accept their own responsibility.

Since its inception in 2014, CMEM has shown great engagement, especially given the turbulent political and social context in which it operates, which requires time and effort by all political and other actors to change.

Trpevska considers it is good that self-regulation has developed in Macedonia in recent years, as it helps the media to restore the debate about the importance of professional and ethical standards: “*Informing though the news should mostly be regulated by self-regulation, that is ethical codes, however it is obvious that this is not enough because of the wider political and market environment in which the Macedonian media function. Therefore, I think that something can be done only if the two approaches are combined - both the legal provisions and the self-regulation, that is, co-regulation. /.../ If the regulator works well, if this affects the creation of an environment in which the media will function independently and freely, then they will complement the self-regulator.*”<sup>80</sup>

She underlines that the regulator must use all their mechanisms, and find new ones, to prevent the link between politics and media owners. „*We can talk about regulation and self-regulation, but if those ties are not broken we will not have objective, professional and impartial media,*“ concludes Trpevska.

One of the effective, though very complex examples of the co-regulation, is the French model. According to the latest changes in the media regulations in France, since November 2016 (Law on Broadcasting, Articles 30-8), any medium broadcasting programmes with political and general information should form a *Committee of Honour, Independence and Pluralism of Information and Programmes*, by independent persons. This body is in charge of monitoring the compliance with the article of the law concerning the honesty, independence and pluralism of information and programmes and a consistent representation of the diversity of French society. If the medium violates the law, the Committee shall inform the French regulator, as well as the management of the medium.<sup>81</sup>

The Council of Honour of Journalists in Croatia pronounces moral condemnations for violating the Code of Honour of Journalists as a mechanism for violating ethical and professional standards. In Croatia, according to the Media Law,<sup>82</sup> the media are obliged to adopt their own statutes, such as self-regulatory acts, which are one of the preconditions for using the funds from the State Pluralism Fund. Most media ignored the legal provisions for years and saw the need for statutes as declarative, without the intention of implementing them in practice.<sup>83</sup> A positive example in Croatia that should be emphasized is the appointment of a *Commissioner for the HRT service users*, which is a kind of ombudsman as part of the Croatian Radio-Television. The Ethics Committee of HRT, which works on the basis of the Code of Ethics, is responsible for respecting the ethnic and professional standards in the public service broadcaster.

The situation with self-regulation in Great Britain is more specific, as this system failed to ensure free, democratic and accountable journalism following the wiretapping scandal of News of the World, which was unveiled in 2011.

Following these developments, the establishment of the principle of self-regulation with respect to respecting professional and ethical standards in reporting in Great Britain was incorporated in Ofcom’s Broadcasting Code. It provides ethical rules to which journalists must adhere in the broadcasting companies

<sup>80</sup> Interview with Snezhana Trpevska, media law expert, Skopje, 19 April 2017.

<sup>81</sup> Ibid.

<sup>82</sup> Zakon o medijima. Available at: <https://www.zakon.hr/z/38/Zakon-o-medijima>.

<sup>83</sup> Popovic, H., “Flash Report 4: Croatia: Self-regulation vs. power relations in media”, 2014. Available at: <http://mediaobservatory.net/radar/flash-report-4-croatia>.

or otherwise face employer sanctions. The BBC is among those media organizations that are subject to the regulations of Ofcom, but the BBC Trust also sets ethical rules for journalists under the Editorial Guidelines. A crucial requirement of the ethical principles of Ofcom and the BBC is that all journalists in the broadcast media must produce politically impartial media content.

According to Schlosberg, the British experience shows that fostering pluralism requires not only effective regulation, but also effective legislation that would provide control over the concentration of media power and adequate support for various forms of news of public interest. This includes, inter alia, providing a distance between the media and the political elites, which is a problem throughout Europe, as well as finding measures (structural and ethical) that will allow internal pluralism inside the big media groups, in particular where the market allows a variety of ownership.<sup>84</sup>

Although the self-regulation of the press in Great Britain has faced major challenges in recent years, there have been cases where it has proven effective. However, according to Freedman, in any case, all regulatory mechanisms should be subject to democratic and public oversight, because otherwise „*we simply surrender the power to the state, which is likely to abuse its responsibilities and seek ways to satisfy its politicians. Regulation should be developed and operationalized in the public interest, that is, democratic mechanisms should be embedded in the procedures for naming the regulatory processes.*”<sup>85</sup>

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<sup>84</sup> Interview with Justin Schlosberg, lecturer at Birkbeck, University of London, Skopje, 17 January 2018.

<sup>85</sup> Interview with Professor Des Freedman from Goldsmith, University of London, November 2017.

## 8. CONCLUSION

The issue of political pluralism in media content is a complex issue, the incentive of which depends on the inclusion of as many stakeholders and different mechanisms as possible. If you look at the indicators of political pluralism,<sup>86</sup> it becomes clear that they depend on a whole range of legal, social and political factors that are characteristic of a particular context of each state.

In Macedonia, the media regulation of political pluralism in television coverage during elections is characterized by a generally well-established regulatory system, which fails in practice, as confirmed by the reporting of the most influential media during the election cycles in 2016 and 2017. The reasons can be sought in the long-term clientelist relationships, developed between different media with the political and business elites, which ultimately results in ignoring the legislation, since the possible sanctions for the media are insignificant in relation to the benefits they may have.

The problem is complicated especially in periods outside the elections, because the regulation contains ethical and professional principles for encouraging political pluralism that apply to both commercial television channels and the public service broadcaster. However, many media do not respect them, because there are no mechanisms that would deter the media from violating them. Hence, the question arises - what can encourage the media to incorporate the principles of political pluralism in their overall functioning, and not only during elections, when they are under increased monitoring and under the threat of sanctions.

In some countries with long democratic and media traditions, it is inconceivable to define political pluralism by law, because the political and media culture are at such a level that the media would not allow themselves to dominantly favour certain centres of power. However, there are examples, such as those presented in this analysis - Croatia and Great Britain, which contain provisions for the protection of professional and ethical standards, through which political pluralism is encouraged, which also provides for legal sanctions.

In any case, the most important thing is how the regulations will be implemented and who will oversee the process of implementation. Therefore, "the place of the regulator, position, competencies and independence are crucial, because their main mission is to take care of the existence of diverse and independent media."

The Croatian and British regulators have greater legal competencies outside election periods in cases where the media violate professional and ethical standards, in comparison with the regulatory body in Macedonia. However, it is crucial for the Agency in Macedonia to continue its proactive role as in the last two years and to respond publicly to all inconsistencies regarding the violation of professional standards in the media, which can influence the raising of public awareness and the awareness of the institutions. In addition, the regulator should introduce ad-hoc supervision of political pluralism in all media, which requires strengthening its staffing capacities.

Two issues that need to be further discussed within the expert public in Macedonia arise from this research. First, regarding the possibility of an increase in the competencies of the regulator in cases of disrespect of political pluralism by the media, the positive and negative aspects of this decision should be considered. In order to open this topic, it is necessary for the Agency to demonstrate professional independence and integrity in order to meet the fears of media actors that legal provisions could be misused for the benefit of or harm to some media.

In addition, consideration should be given to the possibility of intervening in the Law on Audio and Audiovisual Media Services and inserting an obligation for the media to respect professional and ethical standards, as one of the aspects of political pluralism. This would indicate a closer cooperation between the regulatory and the self-regulatory body, for which the mechanisms and modalities would be the subject of further discussion.

Since European trends refer to the balancing between regulatory and self-regulatory mechanisms, when it comes to political pluralism in media content, this gives room to strengthening the role and significance of the self-regulatory body. Therefore, it is necessary to encourage the support of CEMM by the media. On the other hand, the level of their "self-criticism" in terms of accepting the decisions of the self-regulatory body should be increased.

Media and civic organizations should demand and advocate for the promotion of this goal and encourage citizens to react. This issue should be integrated in the education system as a value that will be promoted by the new generations of journalists and media workers. However, it is crucial to raise awareness among media and media owners, editors and journalists, but also with political elites, which should demonstrate democratic capacity and ultimately leave the media to function independently.

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