

Pursuant to Article 20, Paragraph 1, Indent 15 and Article 18, Paragraph 1, Indent 20, in relation to Article 96, Paragraph 2, of the Law on Audio and Audiovisual Media Services (*Official Gazette of the Republic of Macedonia*, Nos. 184/13, 13/14, 44/14, 101/14 and 132/14), and Article 76-c, Paragraph 8 of the Electoral Code (*Official Gazette of the Republic of Macedonia*, Nos. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 196/15), at its 1st session held on 05.01.2016, the Council of the Agency for Audio and Audiovisual Media Services adopted the following

**METHODOLOGY FOR MONITORING
MEDIA COVERAGE OF ELECTIONS
IN THE RADIO AND TELEVISION PROGRAMME SERVICES
DURING ELECTION PROCESSES**

LEGAL FRAMEWORK

The grounds for carrying out monitoring over the reporting and conduct on the part of the television and radio programme services in the period before and during the election campaign, as well as during the pre-election silence, have been regulated by the Electoral Code (*Official Gazette of the Republic of Macedonia*, Nos. 37/96, 80/99, 4/02, 43/03, 19/04, 81/05, 60/06, 73/06, 7/08, 139/08, 114/09, 51/11, 135/11, 185/11, 142/12, 166/12, 55/13, 82/13, 14/14, 196/15). This legal act is also referred to by the Law on Audio and Audiovisual Media Services (*Official Gazette of the Republic of Macedonia*, Nos 184/13, 13/14, 44/14, 101/14 and 132/14), which, in its Article 96, Paragraph 1, stipulates that: "During an election campaign, broadcasters are obligated to abide by the provisions that regulate elections in the Republic of Macedonia". However, apart from these rules, broadcasters are also required to observe the provisions of the Law on Audio and Audiovisual Media Services, especially those concerning the standards and principles of performing their activity under Articles 61 and 111, as well as the specific prohibitions under Article 48.

This methodology puts provisions into operation and defines precisely the manner in which the Agency for Audio and Audiovisual Media Services shall conduct monitoring of the media coverage of elections.

MONITORING OBJECTIVES

Starting out from the legal framework, the general objectives of the monitoring are to follow whether and to what extent broadcasters:

- ☞ provide fair, balanced and unbiased media coverage;
- ☞ offer a level playing field to all participants in the election campaign in terms of access to all forms of media presentation: news, special information programmes (interviews, debates, TV/radio duels, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes), free political presentation and paid political advertising.

For the monitoring to meet its objectives, the results obtained should provide answers to the following questions:

- ☞ Do the newscasts abide by the quantitative and qualitative principles for achieving balanced reporting on the campaigns of the participants in the election process?

- ☞ Is there compliance with the prohibition stipulating that reporting on the activities of the authorities must not perform the function of electoral media presentation of any political entity during the entire period from the elections' announcement until their completion?
- ☞ Do the special information programmes on the elections observe the rule for ensuring a balanced, fair and impartial treatment?
- ☞ Is there compliance with the rule that editors, journalists, programme hosts and presenters engaged in preparing the programmes must not at the same time take part in the campaigning activities of the participants in the election campaign?
- ☞ Is there compliance with the rules for announcing the results of public opinion polls?
- ☞ Are the rules for broadcasting paid political advertising observed?
- ☞ Are the rules for broadcasting free political presentation observed?
- ☞ Are there any violations of the election silence?
- ☞ Do broadcasters comply with the other rules laid down in the Electoral Code concerning their programmes?

MONITORING PERIODS

Broadcasters' obligations vary at different stages of the election process, which, in turn, affects the monitoring conducted by the Agency, in terms of what will be monitored and which methodological approach will be implemented. Depending on the type of elections, the following periods are of relevance to the monitoring:

- ☞ ***The period before the start of the election campaign:*** This is the period when monitoring conducted by the Agency begins. Namely, monitoring of the broadcasters' programme services in terms of their compliance with the obligations prescribed for this period by the Electoral Code begins the next day after the announcement of elections. This stage of the monitoring ends at 24:00 hrs on the day before the start of the election campaign.
- ☞ ***First round of the election campaign:*** Monitoring of media coverage of the election campaign begins at 00:00 hrs on the first day of the first round of the campaign, and ends 24 hours before the voting day.
- ☞ ***Second round of the election campaign:*** Monitoring of media coverage begins at 00:00 hrs on the first day of the second round of the campaign and ends 24 hours before the voting day.
- ☞ ***Election silence:*** Monitoring of the election silence, in both the first and the second rounds of the election campaign (for those elections that are conducted in two rounds) begins at 00:00 hrs on the day before the voting, and ends at 19:00 hrs on the voting day.
- ☞ ***Periods related to publishing the results of public opinion polls:*** The results of the public opinion surveys related to the participants in the electoral process must not be aired during the period of five days before the voting day both in the first and in the second rounds of the elections (for those elections that are conducted in two rounds).

SCOPE AND SAMPLES

A. Prior to the start of the election campaign

The monitoring performed by the Agency in the period from the announcement of the elections until the start of the election campaign, shall cover:

- ☞ the national television programme services of the Public Broadcasting Service (PBS) and the trade broadcasting companies, which are broadcasted via a digital terrestrial multiplex, a satellite or a public electronic communication network that does not use a limited resource, and
- ☞ the national radio programme services of the PBS and of the trade broadcasting companies that air news programmes.

All remaining radio and television programme services will be analyzed on the basis of petitions and complaints.

The monitoring sample shall consist of the 24-hour programme (with an emphasis on the central edition of the daily-information programmes).

B. First round of the election campaign

Monitoring during the first round of the election campaign is the most extensive, i.e. it covers all television and radio programme services, with the exception of:

- ☞ the Public Broadcaster's programme services which do not cover the elections, or report on them to a very small extent;
- ☞ the non-profit university radios which are designed to inform their target audience about matters related to their studies and student life;
- ☞ the television programme services of the trade broadcasting companies at the regional and local levels, which do not cover the election campaigns or do this to a very small extent. (Usually, the broadcasters that do not cover the campaign either inform the Agency accordingly, or fall within the group of small TV stations that do not have newscasts of their own or their newscasts last up to 15 minutes, while the monitoring of the previous electoral processes has established that their items on the activities of both the participants in the election campaign and the government representatives have lasted less than two hours throughout the entire campaign), and
- ☞ the regional and local radio stations with a weekly reach of less than one percent.¹ (The data on the reach are obtained from the results of the survey titled "Data on the Reach of the Radio Stations and on the Share in the Total Viewership of the Television Stations that Broadcast Programmes at the National Level via Satellite or via a Public Electronic Communication Network and of the Television Stations that Broadcast Programs at the Regional and Local Levels", which has been conducted for the needs of the Agency by an independent research agency engaged through a public procurement procedure.)

Possible action concerning these programme services will be taken based on petitions and complaints.

¹ The data on the average weekly reach are obtained on the basis of information about which radio stations have the respondents been listening to for at least five minutes during the previous week. The survey is conducted quarterly, using the method of CATI (computer assisted telephone interview), over a sample of 1500 respondents, which is representative at the level of the Republic of Macedonia according to region, sex, age and nationality.

The sample taken for analysing the televisions at the state level shall consist of the entire programme, with the focus on two editions of the daily-information programmes of each of these, broadcast between 17:00 hrs and 24:00 hrs, which are expected to incorporate most of the information about the election campaign.

As regards the state-level radio programme services, the sample shall consist of programme broadcasted in the period from 06:00 hrs until 20:00 hrs, with the exception of the First Service of the Macedonian Radio – Radio Skopje, the sample for which shall be four hours longer, i.e. shall end at 24:00 hrs. One, central, edition of the daily-information programmes shall be analyzed, except in the case of Radio Skopje, where two editions will be subject to analysis.

The portion of the programme taken as a sample for analysis in the case of the regional television services shall be the one broadcast from 06:00 hrs until 24:00 hrs, and in the case of the local television services – from 16:00 hrs until 24:00 hrs. The central editions of the daily-information programmes shall be analyzed in case the medium has its own newscasts.

As for the regional radio stations, the sample shall constitute of the programme broadcasted in the period between 06:00 hrs and 20:00 hrs, and in the case of the local radio stations – the segment between 08:00 hrs and 18:00 hrs. If a radio station has its own newscasts, then the central edition shall be analyzed.

C. Second round of the election campaign

The scope and the sample to be monitored in the second round of the elections are defined subsequently, depending on the results of the first round. Experience so far has shown that the amount of information on the election campaign is more extensive in the first round than in the second round of the elections, due to which the monitoring of the second round usually covers a smaller number of broadcasters.

ASSOCIATES

The monitoring of media coverage of the elections shall be conducted by the employees in the Programme Affairs Department of the Agency for Audio and Audiovisual Media Services, co-workers employed in other departments of the Agency's Professional Services and external associates whose number is determined for each electoral process in particular and varies from one period of monitoring to another, due to the difference in the number of media covered. The basic requirements for the external associates' selection are: to have a completed university education, not to be members of a political party and not to be employed in radio or television (which they should verify by way of a statement), to be computer literate and to have a computer and access to the Internet, a radio and a TV set, and to have a good reception of the radio and TV stations they will be analysing.

MANNER OF REALIZATION

The manner of realization refers to the technical aspects of monitoring – reception of the programme services' signals, recording, use of the application for viewing the recordings, data insertion and processing software, etc. – meaning that these matters are subject to continuous improvement and updating.

The radio and TV services at the national level shall be recorded and analyzed in the premises of the Agency for Audio and Audiovisual Media Services.

At the regional level, all radio and TV services that air their programmes using digital terrestrial multiplexes are recorded in the premises of the Agency for Audio and Audiovisual Media Services, and are analyzed either in the Agency or by the external associates who shall be accessing the Agency's softwares for programme viewing and data coding and processing remotely (from their homes).

The external associates shall analyse the local radio and TV stations remotely, accessing the data coding and processing software from their homes.

The data on all media shall be inserted directly into the Agency's software for radio and TV programme analysis, regardless of the place where the analysis is realized. The data entered will be checked and, after that, the results will be used to draw conclusions that will be published in the report on the media coverage of the election campaign. All the reports on registered violations, pronounced measures and related justifications will be published as well.

SUBJECT

A. Prior to the start of the election campaign

The programme shall be monitored from the day of scheduling the elections until the start of the campaign, while a show or an item shall be analyzed in case of suspected violation.

In this, the monitoring shall focus on the following:

- ☞ whether the reporting on the activities of the state bodies, the bodies of the municipalities and of the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences, is used for one's election media representation;
- ☞ whether there is broadcasting of paid political advertising;
- ☞ whether there are advertisements financed by budget funds;
- ☞ whether there are cases of editors, journalists, hosts or presenters of radio and television programmes simultaneously taking part in the pre-election activities of political parties and coalitions;
- ☞ whether, in case there are ads for collecting signatures in support of independent candidates' candidacies, the same are aired in tune with the established rules;
- ☞ whether the PBS broadcasts debates in line with what has been stipulated by the Electoral Code.

B. First and second rounds of the election campaign

In the course of both rounds of the election campaign, the programme aired by the broadcasters shall be monitored in order to determine whether, in what way and to what extent they adhere to legal obligations.

During the period of election campaigning, all forms of media coverage of the elections shall be analyzed, as follows: daily-information programmes; special information programmes, such as the programmes aimed at informing the citizens about the method and technicalities of voting and the exercise of their voting right, and the political-information programmes realized by genre as interviews, debates or TV/radio face-offs, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information

programmes, as well as the forms of direct access to voters, such as free political presentation and paid political advertising. Also analyzed shall be the content of the shows that are not related to the elections, if these involve participation or appearance of participants in the election campaign and/or representatives of the (state and local) government bodies, state institutions and organizations or legal and other entities entrusted by law to perform public duties.

In this, what shall be analyzed is as follows:

- 📁 the manner of reporting in the central news about the participants in the electoral process and about the activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences;
- 📁 the conditions for access and the treatment of the participants in the election process in the special information programmes;
- 📁 observance of the rules for paid political advertising and free political presentation;
- 📁 observance of the ban for airing advertisements financed from budget funds;
- 📁 whether there are cases of editors, journalists, hosts or presenters of radio and television programmes simultaneously taking part in the pre-election activities of the participants in the election campaign;
- 📁 whether the rules on publishing the results from public opinion polls are respected.

C. Election silence

During the period of election silence, the entire programme shall be monitored, so as to determine whether it contains contents that violate the same.

METHOD

In the period from the elections' announcement until the start of the election campaign, the programme shall be monitored and, if there are indications about violations, a content analysis and – if needed, a discourse analysis – shall be conducted.

In the period from the start of the election campaign until the start of the election silence, the technique of content analysis shall be used, as it provides both quantitative and qualitative indicators regarding media coverage of the election campaign, as shall statistical analysis, with the aim of obtaining cross-sectional data about the time the broadcasters have set aside for each of the participants in the election campaign. In addition, in cases requiring a more detailed qualitative analysis (for instance, of the tone and the framing of an item), discourse analysis shall be applied as well.

During the period of election silence, the programme shall be monitored as well, while content analysis shall be performed only of items/contents the broadcasting of which constitutes violation of the election silence.

FORMS OF MEDIA COVERAGE OF ELECTIONS

Relevant legal provisions

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| “Forms of election media presentation shall refer to: daily-information shows, programmes that provide the participants in the election campaign with direct access to the voters, and special information shows” (<i>Electoral Code, Article 2, Paragraph 1, Indent 22</i>); |
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“Broadcasters, i.e. the Public Broadcasting Service and the trade broadcasting companies and electronic media (Internet portals) that have decided to cover the elections are obligated to do so in a fair, balanced and unbiased manner throughout their programme.

“Broadcasters, regardless of the language in which they broadcast their programming service, are obligated during the election campaign to offer all participants in the election campaign a level playing field in terms of access to all forms of electoral media presentation – news, special information programmes (interviews, debates, TV/radio duels, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes), free political presentation and paid political advertising.

“Programmes designed for juvenile audience must not be used for election presentation in the media.”
(*Electoral Code, Article 75*)

“Editors, journalists, programme hosts and presenters who are engaged in the preparation of the broadcasters’ programmes must not participate in the pre-election activities of the political parties, coalitions, groups of voters and their representatives, i.e. participants in the election campaign.

“Should they decide to participate in such activities, their engagement in the broadcasters’ programmes shall be put on hold from the day of calling the elections until their completion.” (*Electoral Code, Article 75-c*)

The Agency’s monitoring covers all forms media coverage of elections aired by the broadcasters’ programming services.

DAILY-INFORMATION PROGRAMMES (NEWSCASTS, JOURNALS)

Relevant legal provisions

“Daily information programmes shall refer to all editions of the radio and television newscasts and journals.” (*Electoral Code, Article 2, Paragraph 1, Indent 23*)

“Broadcasters shall ensure balanced coverage of the elections in all forms of electoral presentation in the media, in the following manner:

a) with regard to the elections for President of the Republic, in accordance with the principle of equality for all presidential candidates in both the first and the second round of elections;

b) with regard to the elections for Members of the Parliament of the Republic of Macedonia, in accordance with the principle of proportionality based on the number of verified candidate lists for Members of Parliament, and

c) with regard to local elections:

- when electing the Mayor of the Municipality, or Mayor of the City of Skopje, in accordance with the principle of equality for all mayoral candidates in both the first and the second rounds of elections;

- when electing Members of the Municipal Councils, or Members of the Council of the City of Skopje, broadcasters at the national and regional levels should follow the principle of proportionality based on the number of verified candidate lists for Members of the Municipal Councils, or Members of the Council of the City of Skopje, whereas the broadcasters at the local level should follow the principle of equality.

“When establishing whether the media coverage of the elections has been balanced, one shall take into account the intensity of the activities within the framework of the campaigns of the participants in the election campaign.” (*Electoral Code, Article 75-a, Paragraphs 1 and 2*)

“Reporting about the regular activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences, in the programmes of the broadcasters and the dedicated parliamentary

broadcast service covering the activities of the Parliament of the Republic of Macedonia, must not be used for electoral media presentation of any political entity during the period from the day of calling the elections until their completion.” (*Electoral Code, Article 75-b*)

“Broadcasters must not broadcast paid political advertising in the newscasts, special information programmes, educational and children programmes or during live broadcasts of religious, sports, cultural, entertainment and other events.” (*Electoral Code, Article 76, Paragraph 4*)

“During the election campaign, the Public Broadcasting Service is obligated to provide equitable access to the information programme by allocating 30 % of the time for daily events in the country and in the world, another 30 % of the time for the activities of the ruling political parties, yet another 30 % of the time for the activities of the political parties in the opposition, and 10 % of the time for the activities of the political parties that are not represented in the Parliament of the Republic of Macedonia.

“The time of reporting about the campaigning activities of the political parties shall be distributed in accordance with the principles of balanced reporting.

“The Public Broadcasting Service is obligated to provide regular updates about the election process for the hearing impaired as well.

“From the day of calling the elections until their completion, reporting about the regular activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences, in the broadcasters’ programmes must not be used for electoral media presentation of any political entity.”

(*Electoral Code, Article 76-a, Paragraphs 2, 3, 4 and 12*)

“The results of the public opinion polls related to the participants in the electoral process shall be published no later than five days before the scheduled day of elections in both the first and the second rounds of voting.

“When publishing the results of the public opinion polls related to the participants in the electoral process, the media and the electronic media (web portals) are obliged to provide details about the name of the client who ordered and funded the poll, the institution that conducted the poll, the methodology applied, the size and structure of the polled sample and the period when the poll was conducted.

“The results of the public opinion polls carried out on the day of voting itself must not be announced before 19:00 hours, i.e. before the closure of the polling stations.” (*Electoral Code, Article 77*)

“The audio and audiovisual media services must not contain programmes that threaten national security, incite violent destruction of the constitutional order of the Republic of Macedonia, call for military aggression or armed conflict, incite or spread discrimination, intolerance or hatred based on race, sex, religion or nationality.

“The special prohibitions under Paragraph 1 of this Article should be in accord with the practice of the European Court of Human Rights.” (*Law on Audio and Audiovisual Media Services, Article 48, Specific Prohibitions*)

“Broadcasters shall adhere to the following principles while conducting their business activities:

- fostering and development of the humane and moral values of the human beings and protection of the privacy and dignity of each person;
- equal freedoms and rights irrespective of the sex, race, national, ethnic or social background, political or religious convictions, wealth and social status of the individual and the citizen;
- fostering the spirit of tolerance, mutual respect and understanding among individuals of diverse ethnic and cultural backgrounds;
- protection of the identity of the victims of violence;

- respect for the presumption of innocence;
- promotion of international understanding and cooperation, the public notion of fairness and need to protect democratic freedoms;
- objective and unbiased presentation of events, with equal treatment of diverse views and opinions, enabling the audience to freely form their opinion on certain events and issues;
- respect for the confidentiality of the source of information;
- guaranteeing the right to reply and correction, and
- autonomy, independence and responsibility of the editors, journalists and other authors in creating their programmes and their editorial policy.” (*Law on Audio and Audiovisual Media Services, Article 61, Paragraph 1, Indents 1, 2, 3, 4, 5, 6, 9, 11, 12 and 13, Principles*)

“When producing or presenting the programmes, the MRT journalists and editors, as well as the persons directly involved in the production of the MRT’s programmes, shall be obliged, *inter alia*, to:

- adhere to the principle of truthfulness, impartiality and comprehensiveness of the information;
- adhere to the principle of political balance and pluralism of views;
- provide unbiased, comprehensive and relevant information and present the same in a clear and unambiguous manner so that the citizens could freely form their opinion;
- refrain from advocating or favouring positions or interests of a specific political party, association, personal interest, religion or ideology and equally respect the opinions and convictions of others, in their programmes ;
- respect the privacy, dignity, reputation and honour of the individual;
- abide by the principle of constitutionality and legality when formulating information and the programmes, including the prohibition against inciting cultural, ethnic, religious, gender, racial, national or any other form of intolerance;
- abide by the principle of political independence and journalists’ autonomy;
- make a clear distinction between information, i.e. event and a position, and
- respect the criteria for quality, expertise, cultural values and professional competence in terms of the accomplished national highest professional standards and ethical principles of independent journalism and high-quality programme, recognized in Europe.” (*Law on Audio and Audiovisual Media Services, Article 111, Paragraph 1, Indents 1, 2, 3, 4, 5, 6, 7, 8 and 9, Standards and Principles*)

Monitoring of the reporting on an election campaign in the daily-information programmes shall be focused on several issues that have been regulated by the electoral legislation.

The first issue is balanced reporting, which holds both a quantitative, as well as a qualitative, aspects. The quantitative aspect refers to the extent or *time* that the broadcaster sets aside in the news for the activities of a certain candidate or participant in an election campaign, while the qualitative aspect refers to the approach, i.e. the *tone of reporting* and the *framing*.

The other issues relate to the manner of reporting on the regular activities of the authorities and the publishing of public opinion poll results.

In addition, focus is also placed on issues regulated by the Law on Audio and Audiovisual Media Services, such as respect for the professional standards and principles under Articles 61 and 111 and the specific prohibitions under Article 48, etc. Considering that the Agency has no competence to act against the broadcasters for disregarding these Articles, in case of any indications of violation of Article 61, the Agency shall inform the Council of Media Ethics of Macedonia; in case of potential violation of Article 111, apart from informing the Council of Media Ethics, the Agency shall inform the MRT’s Programme Council as well, while, concerning

the prohibitions from Article 48 – depending on the contents – the Agency shall inform either the Commission for Protection Against Discrimination or the Public Prosecutor’s Office of the Republic of Macedonia.

Quantitative aspect of balanced reporting

The quantitative analysis of balanced reporting implies measuring of the duration of all items directly or indirectly related to the elections and their categorizing (coding) as: items related to the activities of the participants in the election campaign, items on the activities of the authorities during the election campaign, editorial reviews of the election campaign, editorial items and brief commentaries on the candidates, political parties or government officials, items concerning public opinion surveys, etc., and entering the same into a special data processing software.

An exception to this are the news of the PBS, where all items shall be measured and coded into a software, so as to establish their compliance with the rule for dividing the time (30% + 30% + 30% + 10%).

After control is performed of the inserted data, statistical analysis procedures shall be applied to obtain cross-sectional data on the time the broadcasters have set aside for different candidates, i.e. participants in the election campaign.

Principles of balance: proportionality and equality

There are two principles according to which, during different electoral processes, broadcasters shall ensure balanced reporting: proportionality and equality (Article 75-a of the *Electoral Code*). It is important to emphasize that broadcasters are not expected to ensure balanced reporting on the diverse political entities in each separate daily-information programme, but throughout the entire election campaign. This methodological determination arises from the Explanatory Memorandum of Recommendation R (2007) 15 of the Council of Europe on measures concerning media coverage of election campaigns, which stipulates that “... this principle should be measured in terms of the entire programme service of a broadcaster, during a certain period of time and not for each show in particular. Broadcasters should ensure balance and represent the diverse political views throughout the entire period of the campaign.”

Which of the two principles shall be applied depends on the type of election and on whether a national, regional or local broadcaster is at issue.

1. During presidential elections, the principle of equality shall be followed, where all broadcasters that have chosen to report on the elections should provide approximately the same amount of airtime in the news for all presidential candidates in the first and the second rounds, certainly, taking into account the intensity of their campaigns.
2. During parliamentary elections, broadcasters shall follow the principle of proportionality in accordance with the number of verified candidate lists. Practically, this means that all broadcasters (national, regional and local) that follow the campaign should allocate approximately the same amount of airtime in the news for the participants in the election campaign with the same number of verified lists of MP candidates and a similar campaigning intensity.
3. During local elections, balance is provided through a combination of the two principles – equality and proportionality – as follows:

in the mayoral elections, all broadcasters following the elections shall ensure balance in accordance with the principle of equality for all mayoral candidates in both the first and the second election rounds;

in the election of members of councils of the municipalities and the City of Skopje:

broadcasters at the state and regional levels shall ensure balance in accordance with the principle of proportionality based on the number of verified candidate lists for members of the municipal councils and the City of Skopje, while

broadcasters at the local level shall ensure balance in accordance with the principle of equality.

In this, both should take into account the intensity of campaigning activities.

What should broadcasters holding licenses to broadcast at different levels do to ensure balanced reporting in the news and journals during local elections?

a. Broadcasters at the national level covering an election campaign in the daily-information programmes should report on the activities of all participants in the election campaign in all election units. In so doing, they shall ensure approximately the same airtime for all mayoral candidates whose campaigns have nearly the same intensity, and approximately the same extent of representation for the participants in the campaign who have the same number of verified lists of candidates for members of the councils, whose campaigns are rather similar in intensity.

b. Broadcasters at the regional level covering the election campaign in the daily-information programmes should report on the activities of all participants in the campaign who have submitted lists in the municipalities in their region. In this, all mayoral candidates whose campaigns are of nearly the same intensity should receive approximately the same airtime, while the participants in the campaign who have the same number of verified candidate lists for members of the councils and whose campaigns are of a rather similar intensity, should be given approximately the same extent of representation.

c. Broadcasters at the local level covering the election campaign in the daily-information programmes should report on the activities of all participants in the election campaign who have submitted lists in the election unit covered by a particular broadcaster. Approximately the same airtime should be ensured for all the mayoral candidates and participants in the campaign who have lists of councilors, whose campaigns have nearly the same intensity.

4. As regards the Public Broadcasting Service (PBS), the *Electoral Code* envisages achieving balanced reporting in the daily-information programmes through a two-stage procedure. Namely, in accordance with Article 76-a, Paragraph 2, the PBS shall first ensure equal access, by way of dividing the total news airtime into four parts, as follows:

30 % of the airtime, it shall broadcast items about daily events in the country and in the world;


another 30 % of the airtime, it shall dedicate to the activities of the ruling political parties;


yet another 30 % of the airtime, it shall allocate for the activities of the opposition political parties, and


during the remaining 10 % of the airtime, it shall be reporting on the activities of the political parties that are not represented in the Parliament of the Republic of Macedonia.

Furthermore, in the three segments dedicated to reporting on the campaigning activities of the political entities that have candidate lists (i.e. in the 30 % of airtime dedicated to the parliamentary opposition, the 30 % dedicated to the government and the 10 % dedicated to the participants in the election campaign who are not represented in parliament), the airtime should be allocated based on the principle of balance implemented for that particular type of elections (Article 76-a, Paragraph 3).

Starting out from:

 the position and responsibilities of the Public Broadcasting Service in the society, which are clearly laid down in the Law on Audio and Audiovisual Media Services (Article 111), envisaging its compliance with the principle of political balance and pluralism of views,

 the understanding that the requirement of the *Electoral Code* (Article 75, Paragraph 1) that the PBS should report in a just, balanced and unbiased manner refers to all participants in the election campaign, and

 the fact that Article 76-a, Paragraphs 2 and 3, refer only to political parties, whereas, according to the definition of the *Electoral Code* (Article 2, Paragraph 1, Point 14), “a participant in an election campaign is a person who is authorized by a political party, **coalition or group of voters** organizing the election campaign,”



the Agency, when conducting the monitoring, shall implement Article 76-a, Paragraph 2, i.e. the first degree of ensuring equal access, which refers to dividing airtime in the daily-information programmes into four parts, as follows:

a. The 30 % of a newscasts set aside for reporting on the daily events in the country and in the world shall incorporate the time dedicated to the items about daily-political events, here also including the items about the activities of the incumbents as part of their regular agendas, i.e. the activities that are important for the functioning of the state, followed by social topics, topics related to civil society, the economy, etc.

b. The 30 % set aside for the opposition shall include items reporting on the campaigning activities of the political parties that constitute the parliamentary opposition at the time the decision to call elections was made.

c. The 30 % dedicated to the campaigning activities of the parties in power shall include the items concerning the campaigns of the political parties comprising the government coalition at the time the decision to call elections was made.

d. The remaining 10 % shall include, apart from items about the campaigning activities of the non-parliamentary political parties and their coalitions, items about the independent candidates as well. Although the candidates of the groups of voters are not covered by this legal obligation, the Agency expects the PBS to report on these candidates as well.

e. If the sports news are an integral part of the newscasts and are not separated, their duration shall be deducted from the total news time, while the remaining portion is the one that should be divided into four parts (30%+30%+30%+10%).

f. The time spent on the news headlines and the credits shall not be calculated into the total time of the newscast either.

Reporting on the activities of government officials

The time and the manner in which broadcasters report on the activities of government representatives (the President of RM, the Assembly, the Government, the local government, as well as the incumbents of legal entities entrusted by law to perform public competencies) during an election campaign is a very important aspect in establishing if there is balanced reporting. Namely, as indicated in the sixth edition of the OSCE's Election Observation Handbook (2007), the fact that media report on the incumbents performing their official duties "should not be misused as a means to give them unfair advantage, and campaign events should not be confused with issues of state."² Also, Recommendation R (2007) 15 of the Council of Europe concerning the measures related to media coverage of election campaigns stipulates that "broadcasters must not give preferential treatment to government officials in the course of daily news programmes."³

These efforts arise from the fact that the government officials are also representatives of political parties. This duality of their political identity is particularly evident during election campaigns, due to two important aspects underlined in the Guidelines on Media Analysis During Election Observation Missions prepared by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Directorate and the Council of Europe and EC's Commission for Democracy through Law (the Venice Commission): (1) how to ensure balance between the candidates and participants in the election campaign's exercise of the right to equal opportunities for access to media presentation and the right and obligation of the media to report on the government's activities, and (2) how to ensure equal media treatment of candidates and participants in the campaign, given that the context of reporting on the activities of the government is most often positive due to the very nature of events reported on (for example, an important international event, official meetings, sessions, etc.).⁴

Due to this, in its Article 75-b, the Electoral Code prescribes that, in the period from the day of scheduling the elections until their completion, reporting on the regular activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competencies, must not serve as election media presentation of any political entity.

The Agency expects the media to be persistent and consistent in their efforts to distinguish between the regular activities of the government officials that are relevant to performing their duties and the functioning of the state, and those activities that they perform as representatives of political parties for the purpose of election media presentation (most often related to infrastructural facilities or facilities associated with social activities, meetings or promises of measures that will positively affect certain categories of citizens, such as the pensioners, the students, the farmers, or some other type of promotional appearances). As a matter of fact, according to the Guidelines for Media Analysis During Election Observation Missions prepared by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Directorate and the Council of Europe and EC's Commission for Democracy through Law (the Venice Commission), the events involving incumbents may be "truthful and relevant" (such as national holidays or anniversaries), truthful but marginal

² Election Observation Handbook (Sixth Edition), OSCE Office for Democratic Institutions and Human Rights. Warsaw: Organization for Security and Co-operation in Europe, 2010. p. 63, available at: <http://eos.cartercenter.org/quotes?part%5B%5D=14&sort=&q=incumbents#>

³ Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, available via: <https://wcd.coe.int/ViewDoc.jsp?id=1207243>

⁴ Guidelines on Media Analysis During Election Observation Missions, by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission, p. 14, available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwjryqamvtHJAhVEBSwKHe4kAhcQFggsMAI&url=http%3A%2F%2Fapt.sze.hu%2Fdownloadmanager%2Fdownload%2Fnohtml%2F1%2Fid%2F18970%2Fm%2F1631&usq=AFQjCNFjaEvu0IQJ1wO1WIrE0jEM6tiyxg&cad=rja>

(such as launch of public facilities), or pseudo-events (events created and managed by the government with the aim of obtaining better and broader media coverage)".⁵

During the election campaign, the media may report on the regular activities of the government authorities, but should in this take heed that their manner of reporting does not serve the election campaign of the ruling parties. Various European and international documents and handbooks provide guidelines about what to do in such situations.⁶ They may decide to report only about "state matters", or take a critical stand in the items about activities related to the pre-election period. Or, they may decide that, alongside the statements or activities of the incumbents taking part in the campaign, they will regularly provide statements from the opposition parties and/or civil society representatives.

The monitoring establishes if the reporting is used for campaigning purposes by way of intersecting quantitative and qualitative indicators obtained through the observation of the daily-information programmes. Any frequent broadcasting of positively framed items for the purposes of the ruling parties' election campaign is undoubtedly a violation of the Electoral Code.

Considering that reporting on the government representatives' activities becomes an object of monitoring immediately after elections are scheduled, the Agency shall act in the following way regarding this type of media items:

📁 In the period from scheduling the elections until the start of the election campaign, should there be indications that a broadcaster covered by the monitoring reports in favour of the government officials' election media representation, an analysis will be conducted of a sample of the central daily-information programmes broadcasted in the course of one week and, if these indications prove to be true, the Agency shall undertake measures. It shall act in the same way should it receive a complaint about a broadcaster that has not been included in the sample claiming that the latter has been reporting in favour of the government representatives' media election representation;

📁 During the period of election campaigning, the total airtime the media set aside for items dedicated to the government's activities is measured in order to obtain a complete picture of the extent to which the government is present in the daily-information programmes. In this, it is also monitored what portion of the items consists of direct speech (audio statements) of the politicians. The tone and framing of an item are the key indicators showing if the reporting in that item serves the purposes of one's election campaign. These findings enter the overall assessment of whether there is balance in the daily-information programmes for each broadcaster in particular. Based on this assessment, measures are undertaken against those broadcasters that have not provided balanced reporting.

📁 **Qualitative aspects of balance**

The data collected about the quantity of reporting dedicated to different political entities do not provide a complete picture of the pluralism represented by the media. The public notion of the political parties, candidates

⁵ *Ibid.*

⁶ For instance: *Media and Elections: A Guide for Electoral Practitioners*, UNDP (2014), available at: http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/media-and-elections--a-guide-for-electoral-practitioners.html, or *Handbook on Media Monitoring for Election Observation Missions*, OSCE/ODIHR (2012), available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKEwjrygamvtHJAhVEBSwKHe4kAHcQFggIMAE&url=http%3A%2F%2Fwww.osce.org%2Fodihr%2F92057%3Fdownload%3Dtrue&usq=AFQjCNFPY4A75iYSjRtFH8Y3j3SIIBfk8Q&cad=rja>

or leaders is not shaped only by the amount of airtime that is given to them, but also by the manner in which they are presented. Bearing this in mind, the monitoring of reporting in the daily-information programmes shall also analyse certain qualitative aspects of balance. The elements on the basis of which the quality of reporting shall be evaluated rest on the *Guidelines on Media Analysis During Election Observation Missions*, prepared by the Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Directorate and the Commission for Democracy through Law (Venice Commission) of the Council of Europe and the European Commission, back in 2009, as well as on the *Guidelines for Election Coverage by Broadcasting Media in Transitional Democracies*, by “Article 19”.⁷

These monitoring elements shall be operationalized as follows:

- 📁 Explicit evaluation of the journalist/editorial staff on the relevant entity;
- 📁 The tone of reporting, which is measured on a scale of three values (positive, neutral, negative). This assessment is used in cases where the journalist or editor uses explicit words or sentences to express an obviously positive or negative attitude towards a particular political entity.
- 📁 The framework (framing) within which the relevant entity is being reported on. The framework represents the value of the journalistic item reporting on the entity, i.e. the context of the reporting. The notion of “framing” is not related to the truthfulness or the falsehood of the context, but to the light that this context casts on the entity. Constant reporting on a political entity in a problematic context (for example, events involving violence, initiated procedures for establishing corruption, etc.) during an election campaign may imply an intention to present this entity to the public in a negative context;
- 📁 Manipulative use of movies, images and sounds. This refers to the consistent use of a shooting angle whereby the crowd attending the rallies of certain parties or candidates is presented in such a way that it appears larger than it actually is, while the shooting angle used at the rallies of other participants in the campaign makes it appear that there are fewer people attending the event. Other similar examples include: broadcasting movie clips that do not correspond with the event being reported on, with the aim of favouring certain parties or candidates; use of accompanying music or visual effects that give a warning, satirical, patriotic or optimistic tone to the item, and use of manipulative tone of voice or sarcasm on the part of the reporters and the presenters;
- 📁 Choice of words (or sentences) when reporting on political entities, or when presenting information;
- 📁 The number and total duration of the direct speech instances (statements), which the broadcaster provides to the participants in the campaign, the candidates or the government officials, are also measured as qualitative aspects of balance (the use of direct speech indicates if there are differences in the treatment: for instance, an item involving a direct statement by the Prime Minister and a quote of the opposition leader);
- 📁 Respect for the basic professional journalistic standards in reporting.

⁷ *Guidelines for Election Broadcasting in Transitional Democracies*, August 1994 (reprinted April 1997), Article 19, available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj8kb2NvNHJAHL1ywKHQUwD2MQFggdMAA&url=https%3A%2F%2Fwww.article19.org%2Fpdfs%2Ftools%2Felectionbroadcastingtrans.pdf&usq=AFQjCNHW7DJcPDwyclqchorJAi1_oL7tA&cad=rja

Other qualitative aspects of reporting (use of comments in the news, the manner of reporting on the results of public opinion surveys, the use of “hate speech”, etc.) shall also be monitored. These are assessed by use of procedures of qualitative content analysis or discourse analysis.

Other qualitative aspects of reporting

Objective and accurate reporting

The evaluation of the “tone” of reporting indicates whether a medium’s attitude towards a particular political entity is positive, negative or neutral. However, this is not sufficient to assess whether the medium reports objectively and accurately. Continuous false reporting is one of the most serious flaws of media coverage of a campaign that can be established only with the help of a comprehensive qualitative analysis, which involves more complex methodological procedures (e.g. comparing the reporting to the actual events or monitoring the reporting on one and the same event by several media – case study).

Objective reporting is one of the fundamental principles of professional journalistic reporting and, as such, is not subject to legislation concerning elections coverage. These aspects enter the sphere of ethical and professional standards and are, therefore, regulated by journalists’ codes, i.e. self-regulation. Hence, although the Agency’s monitoring can help obtain certain qualitative findings about objectivity in reporting, these may not be used as grounds for action, but only as an additional indication when evaluating the qualitative aspect of balanced reporting.

Comments in the daily-information programmes

One journalist piece of news or report should consist of facts and data, while the editorial commentary implies stating of the opinion, ideas and views of the editorial board, the editor or the journalist. This distinction is particularly important when reporting on an election campaign, so that the audience can clearly distinguish between the information and the comments concerning an event. This is precisely why it is especially important to identify the author of the commentary, so that the audience knows whose position it is.

Reporting on public opinion surveys

Reporting on the public opinion surveys related to the parties and candidates’ ratings and the possibility of winning the upcoming elections is a matter of particular importance during an election campaign. Broadcasting items that explain survey results may sometimes be aimed at manipulating the voters’ opinion, especially when the surveys involve unrepresentative samples (are conducted online or via televoting), or when they are commissioned or conducted by organizations that are biased. Due to the above, public opinion surveys that are used to determine the ratings and make projections concerning the outcome of the elections should be conducted on a scientific basis, using a representative sample of respondents, by independent research organizations or institutes. Reporting on the results of the surveys must be objective and impartial and must contain all the necessary elements, as prescribed by Article 77 of the Electoral Code, so that the audience may be able to assess their reliability.

Hate speech

During monitoring, the presence of possible 'hate speech' in reporting on the election campaign shall also be subject to monitoring. Refraining from the use of any hate speech falls within the basic journalistic principles, but has also been elaborated in a number of international documents.




As indicated in the *Guidelines for Media Analysis during Election Observation Missions* made in 2005 by the Office for Democratic Institutions and Human Rights (ODIHR), the Directorate of Human Rights and the Commission for Democracy through Law (Venice Commission) of the Council of Europe and the European Commission, “one of the biggest problems during an election campaign is the extent to which ‘hate speech’ should be prohibited”. In this regard, it is advised to impose “minimum limits to individual freedom of expression as the election campaign is precisely the moment when a variety of views, even when expressed in an aggressive manner, should be disseminated”, while, at the same time, it is pointed out that “the specific situation of every country” should be taken into consideration, as, for instance, “in the post-conflict areas, stricter restrictions may be imposed in order to avoid new tensions among the populations”, while “the concept of hate speech should be related to the potential effect of the message on the audience.”⁸

The Guidelines for Monitoring Hate Speech by the Agency for Audio and Audiovisual Media Services point out that “there is no universal definition of ‘hate speech’. The meaning of the term has a long history in the jurisprudence of various member states of the Council of Europe and the European Union, along with the case law of the European Court on Human Rights.”⁹

However, the definition of hate speech most frequently referred to is the one from the Council of Europe’s Recommendation No. R (97) 20, according to which the term covers “...all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, antisemitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.”¹⁰

Hate speech is regulated in several domestic legal acts, the one of special importance for the Agency’s monitoring being the specific prohibition under Article 48 of the Law on Audio and Audiovisual Media Services. What it prohibits is content that threatens national safety, promotes violent destruction of the constitutional order of the Republic of Macedonia, calls to military aggression or armed conflict, incites or spreads discrimination, intolerance or hatred based on race, sex, religion or nationality. At the same time, it stipulates that, when deciding whether this article has been violated, the Agency should act in accordance with the case law of the European Court of Human Rights.

This reference means that, bearing in mind that this is a situation where freedom of expression may end up being restricted, when analysing each content and the manner in which a broadcaster has acted with regard to it, the three-partite test of the European Court of Human Rights must be observed:

-  Is the restriction prescribed by law?
-  Is there a legitimate aim?
-  Is it necessary in a democratic society?

In an attempt to provide directions on where to set the boundaries of “admissible” speech during election processes, the Joint Statement on the Media and Elections by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Media Freedom Representative, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information, in 2009, states the following:

⁸ Council of Europe Venice Commission (2005), *Guidelines on Media Analysis during Election Observation Missions*. Strasbourg: Council of Europe. p. 61, available on:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj6heXGltbJAhVHXCwKHYRMBZsQFggdMAA&url=http%3A%2F%2Fwww.gpb.ge%2Fuploads%2Fdocuments%2Fbea833c7-2a31-4eb3-9518-6ed509639532Guidelines%2520on%2520Media%2520Monitoring.pdf&usq=AFQjCNGH2-0aZoeNNqKfN8ISHicFRbqgAw&cad=rja>

⁹ *Guide to Monitor Hate Speech* (2014), Agency for Audio and Audiovisual Media Services, p. 6, available at:

http://avmu.mk/images/Guide_to_monitor_hate_speech.pdf

¹⁰ Recommendation No. R (97) 20 on “hate speech,” adopted by the Committee of Ministers of the Council of Europe on 30 October 1997, available at: [www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lqbt_docs/CM_Rec\(97\)20_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lqbt_docs/CM_Rec(97)20_en.pdf)

“The media should be free to report on election-related matters. They should also be exempted from liability for disseminating unlawful statements made directly by parties or candidates – whether in the context of live broadcasting or advertising – unless the statements have been ruled unlawful by a court or the statements constitute direct incitement to violence and the media outlet had an opportunity to prevent their dissemination.”¹¹

A useful tool, both for the Agency and the broadcasters, when estimating whether a certain statement constitutes a form of speech that must be prohibited, are the guidelines given in the *Guide to Monitor Hate Speech*. These include the following questions:

- 📁 What was the context of the expression?
- 📁 Who was the person responsible for the expression?
- 📁 Was there an intention to provoke hate speech?
- 📁 What was the content of the expression?
- 📁 What were the extent and scope of the expression?
- 📁 What was the likelihood of impact on the audience and its future actions?

Or, to sum up, “media should refuse all open or furtive expression of intolerance and consider carefully if the publication of such expression is conducive to defamation and ridicule based on sex, race, colour, language, faith and religion, affiliation with a national or ethnic minority group, social difference or other kinds of conviction”,¹² including grounds such as political opinion or sexual orientation.

Methodologically, the evaluation of this qualitative aspect of reporting shall be built on the basis of qualitative discourse analysis of the actual content (statement, message, etc.), whereby the context in which it was expressed, the international standards and the provisions laid down in the Law on Audio and Audiovisual Media Services shall be taken into account. It must be emphasized that the monitoring of the Agency, in order to meet the three-partite test of the European Court on Human Rights, does not only analyse what has been said, but also always analyses how a broadcaster has acted in relation to the statement found to constitute hate speech. Namely, the ultimate responsibility for such statements is that of the individual or the political entity giving the statement, but it is important whether the medium informed about it professionally, i.e. placed the statement within an appropriate context and clearly showed that it did not support it.

In this, one has to bear in mind that it is not forbidden to report on the existence of hate speech. Actually, due to the short duration of the election campaign and the fundamental importance of the freedom of political debate as a condition for free and fair elections, it is considered that media may report on the ‘hate speech’ which is part of a campaign run by the political entities, but which does not represent direct call to violence or destruction the constitutional order, or incitement of national, racial, gender-related or religious hatred and intolerance. The recommendation that media should be free from responsibility for broadcasting different types of mutually-accusing messages by political entities (insult, slander, etc.) is based on past experience and case law according to which the use of such statements is regarded as appropriate in the political context, especially owing to the existing possibility to exercise the right to reply or correction of such statements.

Media shall be considered liable if they:

- 📁 air direct calls to acts of violence (explicitly forbidden under Article 48 of the Law on Audio and Audiovisual Media Services);
- 📁 represent sources of hate speech themselves;

¹¹ Joint Statement on the Media and Elections by the UN Special Rapporteur on Freedom of Opinion and Expression (2009), the OSCE Media Freedom Representative, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information, available at: <http://www.osce.org/fom/37188>

¹² Council of Europe Venice Commission (2005), Guidelines on Media Analysis during Election Observation Missions. Strasbourg: Council of Europe. p. 60, available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj6heXGltbJAhVHXcWkHYRMBZsQFggdMAA&url=http%3A%2F%2Fwww.gpb.ge%2Fuploads%2Fdocuments%2Fbea833c7-2a31-4eb3-9518-6ed509639532Guidelines%2520on%2520Media%2520Monitoring.pdf&usq=AFQjCNGH2-0aZoeNNqKfN8ISHicFRbqqAw&cad=rja>

report unprofessionally in cases where they air statements containing hate speech without providing balance by furnishing an opposing view, fail to dissociate themselves or provide adequate contextual explanation that would reduce these statements' effect. In such cases, the circumstances are always graver if such statements are part of previously recorded items or programmes, rather than of a programme going live. Hence, what broadcasters are expected to do when a guest in a newscast, an interview or another type of programme aired live gives an opinion that constitutes hate speech, is to warn him/her that such statements are unacceptable for the most of the public; if the guest continues to talk in the same fashion, warn him/her that such statements are opposite to the journalistic principles and unacceptable for the medium and, as a last resort, strip him/her of their right to speak in the show. If the show is a live debate or faceoff, then the journalist may, as a way of providing additional context, invite the other guests to counter the hate speech expressed by presenting their own positions.

SPECIAL INFORMATION PROGRAMMES

Relevant legal provisions

“Special information programmes” shall refer to: programmes intended to inform citizens about the manner and technicalities of voting and the exercise of their voter’s right, and the political-information programmes in the form of interviews, debates or TV/radio duels, current-affairs information programmes, current-affairs information programmes with a documentary approach and thematically-specialized information programmes.” (*Electoral Code, Article 2, Paragraph 1, Point 27*)

“In cooperation with the State Election Commission, the Public Broadcasting Service is obligated to inform the citizens, without any compensation, about the manner and technicalities of voting and to broadcast other information related to the electoral process.

“From the day of calling the elections until the electoral silence, the Public Broadcasting Service is obligated to organize debate shows, i.e. face-offs between the largest political parties in the government and the opposition, as well as the other participants in the electoral process.” (*Electoral Code, Article 76-a, Paragraphs 1 and 11*)

“Broadcasters must not broadcast paid political advertising in the newscasts, special information programmes, education and children programmes or during live broadcasts of religious, sports, cultural, entertainment and other events.

“For the purpose of providing objective information to the voters about the course of the election campaign and for the sake of protecting the profession of journalism from any political influence during electoral presentation in the media, special information programmes must not be used as a form of paid political advertising.” (*Electoral Code, Article 76, Paragraphs 4 and 6*)

The first category of special information programmes includes programmes intended to inform citizens of the manner and technicalities of voting and the exercise of their voter’s right. The broadcasting of these programmes is a special obligation of the Public Broadcasting Service (Article 76-a, Paragraph 1 of the *Electoral Code*).

As far as the other types of special information programmes i.e. interviews, debates and duels are concerned, the obligation applies to provide equal conditions for access to the broadcasters, as well as fair, balanced and unbiased treatment (in accordance with Articles 75 and 75-a of the *Code*). In this, the evaluation whether these obligations have been met is not made for each show separately, but rather for a series of interviews, debates or duels that the broadcaster will have organized throughout the election campaign.

Balance in these programmes is achieved by observing the principles of Article 75-a, in the same manner as described above in the case of daily-information programmes. During presidential elections, the principle of equality is applied; during parliamentary elections – the principle of proportionality, according to the number of verified candidate lists, while, during local elections, local broadcasters are obligated to follow the principle of equality both in case of mayoral elections in all municipalities and elections of members to the

councils, whereas broadcasters at the state and regional levels should follow the principle of equality for the mayoral candidates and the principle of proportionality based on the number of verified lists of candidates for members to the councils of the municipalities and the City of Skopje.

Practice shows that not all candidates respond to the TVs and radio stations' invitations to participate in their interviews, debates, or duels. If the broadcaster duly invites the candidates or the representatives of the entities participating in a campaign to take part in its programme, but the latter do not effectuate their right to access, the medium should clearly stress this fact during the broadcasting of such information programmes. The monitoring shall take note of this and, in such cases, a certain imbalance is expected to occur, for which the broadcaster is not held accountable. An exception to this are the cases – also seen in practice – where this situation is used to realize and rerun numerous special information programmes involving only the representatives of one option at the elections, whereby the media themselves create an imbalance. The Agency shall treat this as a component of the assessment on ensuring balance in the total programme.

Pursuant to Article 76, Paragraph 6 of the *Code*, the special information programmes, i.e. the interviews, debates and duels, must not be used as a form of paid political advertising. Special information programmes are forms of media presentation under the editorial control of the broadcaster. Their goal is to inform the audience objectively and as extensively as possible about the candidates and the election campaign. Therefore, they must not be used as a form of paid political advertising, primarily because of the professional and ethical aspects of journalism. In the journalistic forms of campaign coverage, the role of the journalist cannot be reduced to the formal role of a “presenter” or “moderator” in the interest of a particular political entity, especially if these forms are paid. On the contrary, the role of the journalist is to present and expose the standpoints of the political parties to the critical eye of the public, taking into account the interests of citizens.

The *Code* stipulates that the Public Broadcasting Service is obligated to broadcast debate shows during the period following the elections' announcement throughout the entire election campaign, in which the largest political parties in the government and the opposition, as well as the other participants in the electoral process, shall counterpose their standpoints on various topics. If it will be broadcasting interviews is a decision that the PBS should make within the frameworks of its independent editorial policy.

Both the PBS and the commercial broadcasters that shall decide to air interviews, debates and duels, must observe the legal and professional rules.

FORMS OF DIRECT ACCESS TO THE AUDIENCE/VOTERS

Relevant legal provisions

“Direct access to voters shall refer to free political presentation and paid political advertising through which the participants in an election campaign shall freely promote their programmes, viewpoints and candidates;

“Free political presentation shall refer to direct access of the participants in an election campaign to the voters, through which the election programmes, viewpoints and candidates shall be promoted freely and without any financial compensation;

“Paid political advertising shall refer to direct access of the participants in an election campaign to the voters, through which the election programmes, viewpoints and candidates shall be presented for a fee. The forms of paid political advertising shall include advertisements, announcements, political election spots, music videos serving as anthems of the participants in the election campaign, live broadcasts or recordings of rallies, meetings and other appearances of the participants in the election campaign.” (*Electoral Code, Article 2, Paragraph 1, Points 24, 25 and 26*)

“The broadcasters, print media and electronic media (Internet portals), as well as the persons related, must not finance in any way or give donations to the political parties. The persons considered as related are those defined by Article 36 of the Law on Audio and Audiovisual Media Services.” (*Electoral Code, Article 75, Paragraph 4*)

“Paid political advertising shall be exempt from the principles of proportionality and equality.” (*Electoral Code, Article 75-a, Paragraph 3*)

“From the day of announcing elections until the start of the election campaign, broadcasters and printed media must not broadcast, i.e. publish, paid political advertisements, except for the advertisements and announcements for collecting signatures to support the candidacy of a group of voters.

“Advertisements and announcements for collecting signatures to support the candidacy of a group of voters should be broadcasted by the commercial broadcasting companies only as part of marked advertising slots, within the allowed time for advertisements per one clock hour of broadcasted programme, for a total duration of 12 minutes, out of which a single participant in the election campaign can be given a maximum of 8 minutes. In this, the orderer should be clearly stated.

“The advertisements and announcements under Paragraph 2 of this Article should contain only the basic data: who the signatures are being collected for, the locations where the citizens can deposit their signatures and at what time of the day. They must not contain additional information about the candidates.

“From the day of announcing the elections until the day of their completion, broadcasters, print media and electronic media (Internet portals) must not broadcast, i.e. publish, advertisements financed from the Budget of the Republic of Macedonia, the budgets of the municipalities and the City of Skopje or any other persons who have been entrusted by law to perform public competences.” (*Electoral Code, Article 75-e, Paragraphs 1, 2, 3 and 4*)

“Throughout the election campaign, both during the first and the second rounds of voting, broadcasters covering the elections may broadcast a total of 18 minutes of additional advertising time per clock hour of broadcasted programme, aimed exclusively for paid political advertising, of which they can allocate maximum 8 minutes to the ruling political parties, maximum 8 minutes to the opposition parties represented in the Parliament of the Republic of Macedonia, one minute to the political parties in the Parliament of the Republic of Macedonia that do not have an MP group, and one minute to the political parties that are not represented in the Parliament of the Republic of Macedonia.

“In distributing the additional advertising time within a clock hour of broadcasted programme for paid political advertising, when there is interest to merge the slots of one political party in two subsequent clock hours, the medium is obligated to provide guarantees that the merging of slots in two subsequent hours twice in a row shall not be from the same political party, and shall guarantee alternating presentation of the political parties in power and in opposition, respectively.

“Broadcasters, print media and electronic media (Internet portals) in the Republic of Macedonia are obliged to ensure equal access to paid political advertising to all participants in the electoral process.” (*Electoral Code, Article 75-f, Paragraphs 1, 2 and 8*)

“Paid political advertising must be properly and visibly indicated as “paid political advertising” and clearly separated from other media contents.

“The advertiser must be clearly identified in all forms of paid political advertising.

“Participation of minors in paid political advertising is prohibited.

“Broadcasters must not broadcast paid political advertising during news, special information programmes, education and children programmes or during live broadcasts of religious, sports, cultural, entertainment and other events.

“The Public Broadcasting Service must not broadcast paid political advertising.

“For the purpose of providing objective information to the voters about the course of the election campaign and for the sake of protecting the profession of journalism from any political influence during electoral presentation in the media, special information programmes must not be used as a form of paid political advertising.

“The campaigns of the State Election Commission designed to educate the voters about exercising their right to vote and about fair and democratic elections must not be considered as paid political advertising. These should be separated from the rest of the programme and the advertiser must be clearly identified.” (*Electoral Code, Article 76, Paragraphs 1, 2, 3, 4, 5, 6 and 7*)

“Throughout the election campaign, both during the first and the second rounds of voting, the Public Broadcasting Service is obligated to broadcast free political presentation of the participants in the electoral process in accordance with the principles of balanced coverage of elections, as stipulated in Article 75-a of this Code.

“The date and schedule of broadcasting free political presentation of the participants in the election campaign are determined by drawing lots.

“Free political presentation in the television programmes of the Public Broadcasting Service should be aired in the period from 16:00 until 23:00 hrs.

“The dedicated broadcast service covering the activities of the Parliament of the Republic of Macedonia shall provide free political presentation of the campaigns of the political parties represented in the Parliament of the Republic of Macedonia for a duration of three hours each, as well as one hour of free political presentation of the campaigns of the submitters of candidate lists who are not represented in the Parliament of the Republic of Macedonia. As regards the use of these three hours and the one hour, respectively, the participants in the campaign may decide to provide recorded materials of their election campaigning activities or may use their time for direct address from the TV studio.

“Free political presentation must be adequately and visibly marked as “free political presentation” for the entire duration of the broadcast.

“The Public Broadcasting Service shall adopt, based on consultations with the participants in the electoral process and the Agency for Audio and Audiovisual Media Services, Rules for Balanced Political Media Presentation within 60 days from the day of the adoption of this Code, and shall publish the same on its website.” (*Electoral Code, Article 76-a, Paragraphs 5, 6, 7, 8, 9 and 10*)

“Due to the organizing of early parliamentary elections, which will be held on 24 April 2016, paid political advertising with the broadcasters, print media and electronic media (web portals) is prohibited within the period from 20 December 2015 until the day of the start of the political campaign for the early parliamentary elections in 2016.” (*Law on Amending the Electoral Code, “Official Gazette of the Republic of Macedonia”, No. 196/15, Article 82, Paragraph 1*)

What is typical for all forms of direct access to the voters (free political presentation and paid political advertising) is that the candidates or participants in the election campaign directly communicate their political messages to the voters without any editorial intervention by the journalists or the broadcaster.

PAID POLITICAL ADVERTISING

“As far as paid political advertising (PPA) is concerned, in the period from the day the elections are called until the beginning of the election campaign, the Agency shall focus its monitoring so as to establish the following:

☞ whether the ban to air PPA is respected, with the exception of advertisements and announcements for collecting signatures to support the candidacies of independent candidates;

☞ whether the advertisements and announcements for collecting signatures to support the candidacy of a group of voters are aired only within marked advertising slots during the allowed time for advertising per clock hour of broadcasted programme;

☞ whether the time allocated for the advertisements and announcements for collecting signatures to support independent candidates is maximum 8 minutes for one participant in the election campaign, and whether the advertiser is clearly identified;

☞ whether the advertisements and announcements for collecting signatures to support independent candidates have the stipulated content, i.e. whether they contain only the basic data, such as who

the signatures are collected for, the locations where the citizens can deposit their signatures and at what time of the day, without any additional data about the candidates whatsoever;

☞ whether advertisements financed from the Budget of the Republic of Macedonia, the budgets of the municipalities and the City of Skopje or any other persons who have been entrusted by law to perform public competences are being aired.

From the beginning of the election campaign (in both the first and the second rounds), monitoring shall track the observance of the following PPA-related rules:

☞ whether the broadcasters covering the elections broadcast maximum 18 minutes of additional time for PPA per clock hour of broadcasted programme;

☞ whether they allocate maximum 8 minutes per clock hour to the ruling political parties;

☞ whether they allocate maximum 8 minutes per clock hour to the opposition parties represented in the Parliament of the Republic of Macedonia;

☞ whether they allocate maximum 1 minute per clock hour to the political parties in the Parliament of the Republic of Macedonia that do not have an MP group;

☞ whether they allocate maximum 1 minute per clock hour to the political parties and independent candidates that are not represented in the Parliament of the Republic of Macedonia;

☞ whether, when merging the slots of PPA by one political party, the broadcaster takes care not to air twice in a row PPA by one and the same political party when carrying the PPA over from one clock hour into the next, and whether, in such situations, the broadcaster alternates airing of the PPAs by the ruling and the oppositional political parties, respectively, in the subsequent clock hours;

☞ whether PPA is properly and visibly identified as “paid political advertising” and clearly separated from other media contents;

☞ whether the advertiser is clearly identified in all the forms of paid political advertising;

☞ whether the ban on minors’ participation in paid political advertising is observed;

☞ whether the ban on broadcasting PPA during news, special information programmes, education and children programmes, as well as during live broadcasts of religious, sports, cultural, entertainment and other events, is observed;

☞ whether the ban on using special information programmes as a form of PPA is observed;

☞ whether the Public Broadcasting Service observes the ban on broadcasting paid political advertising, and

☞ whether the campaigns of the State Election Commission aimed to educate the voters about exercising their right to vote and about fair and democratic elections are separated from the rest of the programme, whether the advertiser is clearly indicated and whether they are not counted as paid political advertising.

In the periods of election silence in both the first and the second rounds, observance of the ban on broadcasting PPA will be monitored.

FREE POLITICAL PRESENTATION

Free political presentation is one of the forms of direct access to the voters through which the citizens in a democratic society can directly acquaint themselves with the positions of the candidates, i.e. the participants in an election campaign. The monitoring that the Agency conducts also tracks if the rules related to this form of direct access to the voters are observed.

Considering that it refers only to participants in an election campaign, free political presentation can be aired only during election campaigns.

On the days of the election campaign in the first and the second rounds, i.e. until the beginning of the election silence, the followed aspects shall be monitored:

☞ whether the Public Broadcasting Service airs free political presentation of the participants in the electoral process in line with the principles of balanced coverage of elections as stipulated in Article 75-a,

i.e. the principle of equality in case of presidential and mayoral elections and the principle of proportionality according to the number of verified candidate lists when electing members to the Parliament and to the municipal councils;

☞ whether the PBS observes the rule that free political presentation in the television programmes should be broadcast in the period from 16:00 until 23:00 hrs;

☞ whether the dedicated parliamentary broadcast service covering the activities of the Parliament of the Republic of Macedonia provides free political presentation of the campaigns of the political parties represented in the Parliament of the Republic of Macedonia, for a duration of three hours each;

☞ whether the dedicated parliamentary broadcast service covering the activities of the Parliament of the Republic of Macedonia provides one hour of free political presentation of the campaigns of the submitters of lists that are not represented in the Parliament of the Republic of Macedonia, and

☞ whether free political presentation is adequately and visibly marked as “free political presentation” throughout the entire duration of the broadcast.

ELECTION SILENCE

Relevant legal provisions

“During the election silence, all forms of electoral media presentation of the participants in an election campaign shall cease.

“Broadcasters shall continue reporting about the electoral process on the day of voting during the election silence as well.

“As regards reporting on the days of election silence, it shall be considered that the media have violated the election silence in case they broadcast, i.e. publish: any information, photographs, audio or audiovisual materials related to or involving participants in the elections; any forms of media reporting that are openly or covertly in favour of a particular election campaign and may influence the voters’ decision; data that reveal the identity of the political entities and/or individuals involved in incidents or other irregularities on the day of voting, as well as statements made by candidates in the electoral process, participants in an election campaign, representatives of political parties and officials of the state administration bodies.” (*Electoral Code, Article 76-b, Paragraphs 1, 2 and 3*)

Election silence is the time in both the first and the second rounds of the electoral process when any kind of electoral media presentation stops in order to allow the citizens to independently make their decision on how to use their right to vote. In this period, the Agency performs monitoring by way of recording and following the programmes of all media included in the sample. It monitors whether the broadcasters shall air:

☞ any kind of information, photographs, audio or audiovisual materials related to or involving participants in the elections;

☞ any forms of media reporting that are openly or covertly in favour of a particular election campaign and may influence the voters’ decision;

☞ data that reveal the identity of the political entities and/or individuals involved in incidents or other irregularities on the day of voting, and

☞ Statements made by candidates in the electoral process, participants in an election campaign, representatives of political parties, and officials of the state administration bodies.

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Agency for Audio and Audiovisual
Media Services
President of the Council,

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