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# Policy

**on Providing Access to**

**Audiovisual Media Services for**

**Persons with Sensory Impairments**

## Introduction

Education, reading, being informed and gaining expertise in general are some of the basic human needs that direct to a large extent the cultural, mental and social development of all individuals in a society, here including equally the persons with any type of disability. When it comes to the need to be informed, this also includes all persons who, for any reason, temporarily or permanently, are not able to use the standard media format.

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|  | **TYPES OF PERMANENT IMPAIRMENT**  |  |
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| **Blindness** **Low vision** **Colour blindness** | **Deafness****Partial deafness****Permanent hearing loss**  | **Dyspraxia** **Arthritis** **Repetitive strain injuries (RSI)** **Cerebral palsy** | **Dawn syndrome** **Dyslexia****Learning difficulties, etc.**  |

The development of media and information and communication technology has raised the issue of implementing the universal principles and of how these benefits may be exercised on the part of every individual in a society, here also including people with disabilities. Creating accessible content enables inclusion, provides better information and socialization of people with disabilities.

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|  | **TYPES OF TEMPORARY OR SITUATIONAL IMPAIRMENT**  |  |
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| **Glasses out of reach****Screen glare when using the device in bright sunlight** |  | **Reception in a noisy environment** | **Temporary injury** **(e.g. fracture)** **Busy hands (carrying a child, bags, etc.)**  | **Use of drugs****Fatigue** **Stress****Hangover**  |

Our country is a signatory to a number of international documents, which oblige it legally or ethically to take concrete action in this regard. Such are: the UN Charter, the Universal Declaration of Human Rights, the UN Convention on the Rights of Persons with Disabilities, the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities, as well as the European Convention on Human Rights.

Ever since its adoption on 10 December 1948, the Universal Declaration of Human Rights of the United Nations General Assembly,[[1]](#footnote-1) which is the Magna Carta of the present day, has paved the way for providing accessibility. Thus, its Article 19 states that everyone has the right to freedom of opinion and expression. This right also includes the freedom to receive and impart information and ideas through the media. Furthermore, Article 7 stipulates that all persons are equal before the law and are entitled without any discrimination to equal protection of the law.

Article 10 of the European Convention for the Protection of Human Rights[[2]](#footnote-2) warrants as well that everyone has the right to freedom of expression, which also includes freedom to receive and impart information and ideas.

The UN Convention on the Rights of Persons with Disabilities,[[3]](#footnote-3) aimed at protecting and promoting their rights and dignity, ensures to the persons with special needs access to the physical environment and transportation, as well as equal access to information and communications (Article 9); guarantees their right to freedom of expression and to being provided information in accessible formats (Article 21), as well as their participation in cultural life, which includes access to television programmes and films (Article 30).

A guarantee of the respect for freedom of expression as a fundamental human right is also contained in Article 16 of our Constitution.[[4]](#footnote-4) This, founding, document of the Macedonian legislation clearly states that this right also encompasses the elements of free access to information, freedom to receive and impart information. The equality of this right, just as of all other rights, is constitutionally guaranteed (Article 9).

From here on, these rights are transposed into legal acts, of which relevant to this document is the Law on Audio and Audiovisual Media Services,5 which entered into force at the beginning of 2014. Article 26, Paragraph 1, of this Law gives to the regulatory body – the Agency for Audio and Audiovisual Media Services – the authority to take up activities aimed at “encouraging the providers of audio and audiovisual media services to gradually make their services accessible to persons with hearing and visual impairments”. In this, it stipulates that they should undertake such activities in cooperation with all relevant stakeholders in society (Paragraph 3). At the same time, the public broadcasting service “Macedonian Radio and Television”, as stipulated in Article 11, shall “plan, develop, adapt, create and broadcast programmes intended for persons with sensory impairments, i.e. persons with hearing and visual impairments”.

In terms of ensuring accessibility as a basis for unhindered enjoyment of the freedom of expression, also important is the amendment to the Electoral Code[[5]](#footnote-5) made in early 2020, which expanded the obligation to provide information related to elections. Namely, previously the obligation to provide such information to persons with hearing impairments under this Code referred only to the Public Broadcasting Service MRT (Article 76-a, Paragraph 4). The new amendments stipulate that the obligation no longer applies only to the Public Broadcaster, but that “…national broadcasters, too, are obligated to perform [the coverage of the elections] in an accessible and available format and language, as well as in the sign language” (Article 75, Paragraph 1), and that this obligation should be realized through “...balanced coverage of the elections in all forms of electoral media representation” (Article 75-a, Paragraph 1).

## AAAVMS’ Practice to Date

Accessibility does not refer only to permanent or semi-permanent visual, auditory, motor or cognitive impairments. Accessibility to products and services also refers to temporary or situational disability of the persons who are temporarily prevented, for example, from watching a footage in a noisy environment or learning the daily news while receiving orders by phone.

The new legal rules require that we make sure to provide access, even if it does not concern us directly. The activities that the AAAVMS has taken up in the past few years in terms of providing access for people with sensory disabilities to the broadcasters' programmes have been guided by this very motto.

Striving to meet its legal obligation in a systematic manner, in the period 2016-2018, the Agency followed its “Programme for Providing Access to Media for Persons with Sensory Disabilities”.[[6]](#footnote-6) The programme had been developed in 2015, by Jelena Surchulija Milojevikj, M.A., and Snezhana Trpevska, PhD, within the frameworks of the project titled “Enhancing the Administrative Capacities of Telecom and Media Authorities for Efficient Regulation of New Digital and Multiple Play Services,” funded by the European Commission under the IPA framework. Guided by this programme, communication was established with representatives of the organizations of persons with vision and hearing disabilities, research was done on their needs and the programme offer, meetings were organized with broadcasters, a brochure was prepared regarding the types of disability and ways to provide accessible programmes, etc. Details regarding the activities that were undertaken can be found in the "Report on the Implementation of the Programme for Providing Access to Media for Persons with Sensory Disabilities (2016-2018)”,8 prepared after the Programme had been implemented. The first research on the media-related needs of people with sensory disabilities, in which they could state precisely what they needed and how what was offered to them should be adjusted so that they could make the most of it,[[7]](#footnote-7) played an important role in the formulation of the current policy document. Of all the findings, it was very important that there were resources present already for many of their needs, and it was only necessary to look into them from these persons’ perspective. These included, e.g. increasing the part of the screen that shows the sign language interpreter; airing the news intended for such persons before and after working hours, so that they can watch them; providing subtitles for the feature series that are dubbed; broadcasting current-affairs news programs with subtitles/sign language.

The Agency has been striving continuously to keep the broadcasters informed about all this so as to encourage them to ensure a greater amount of accessibility, particularly bearing in mind the fact that research conducted on European soil shows that the coverage of people using closed textual descriptions and subtitles is much bigger than the usual, stereotyped perception, as it now includes the elderly as well, just as it includes those who, for whatever reason, are temporarily prevented from watching television in the usual way.

Things are slowly moving away from the deadlock. On the one hand, new television channels are emerging, although slowly, which use the sign language to bring some of their programs closer [to this category of viewers]. Namely, apart from the Public Broadcaster *Makedonska Radio i Televizija* and the regional TVM channel from Ohrid, which have been airing accessible programmes for quite some time, in recent years, the national 24 Vesti TV started using sign language first in its informative show “Otvoreno (Open)”, and then extended this practice to its 8 p.m. news. During elections or in cases where topics on the rights of people with sensory disabilities are covered, other television stations, too, make some of their programmes accessible to people with hearing impairments.

In fact, all the indicators and findings that the Agency has obtained in recent years show that what we need is a change in the worldview of Macedonian society and all the people in it about the lives and needs of people with sensory disabilities. They need to abandon the position of pity or (unintentional?!) patronizing. Providers of audio and audiovisual media services, for their part, should approach the issue of “How to increase the accessibility of their programmes for the vision and hearing impaired?”, as a segment of their business operations, which is important to develop for humane, commercial and, in the foreseeable future, legal reasons, as well.

As will be explained in detail in the next chapter, the amendments to the 2018 Directive on Audiovisual Media Services reinforced the obligation of and added a new quality to the provision of access to programmes on the part of the providers of audio and audiovisual media services. This will inevitably be transposed into the Macedonian legislation, while the adjustment of the programmes so as to make them accessible for persons with disabilities is a process that requires both time and financial resources, regardless of which of the methods of programmes’ adjustment will be selected. Therefore, in the beginning of 2020, the Agency launched an initiative for drafting a self-regulatory act, in order to enable the providers of audiovisual media services to prepare themselves and meet such obligations in a timely fashion. On 30 January 2020, a workshop was held for the broadcasters and providers of on-demand audiovisual media services, as part of the second phase of the JUFREX project titled “Freedom of Expression and Freedom of the Media in the Republic of North Macedonia”. At this workshop, the Council-of-Europe expert Deirdre Kevin shared her knowledge of the European regulations and practices, the TVM and TV 24 Vesti representatives spoke with their colleagues about their experience in providing accessible shows, and agreed on the text of the draft self-regulatory document on access to audiovisual media programmes. Translated into the provisions of this act are the obligations arising from the Directive, and its point is that the providers of audiovisual media services themselves agree upon the obligations they undertake and the dynamics in which they will be fulfilling them.[[8]](#footnote-8)

## Amendments to the EU acquis – a Possible Catalyst for Changes in the Macedonian Practice

The Directive on Audiovisual Media Services (AVMS Directive),[[9]](#footnote-9) underwent significant changes back in 2018, and now it provides an EU-wide framework for coordinating national legislations concerning both traditional broadcasting and on-demand services (e.g. Netflix) and video-sharing platforms (e.g. YouTube). Among the more significant amendments are those relating to providing access to audiovisual programmes for persons with disabilities and the elderly. Macedonian regulations in the sphere of audiovisual media services will necessarily have to be harmonized with the Directive, given that the country is а candidate for EU membership. Therefore, the steps envisaged in this policy document of the Agency will be directed towards meeting the new challenges, and not the existing legal framework.

The Directive sets out the minimum requirements, without specifying how to conduct the harmonization, and leaves it to the States to decide on how to carry out the harmonization of their national laws and regulations, as well as on the dynamics with which the AVMS providers will be progressing in providing access to their programmes. In this, they can always exceed the Directive’s requirements, but not to underachieve them.

The previous AVMS Directive obliged the Member States only **to encourage** the providers of linear and nonlinear audiovisual media services to **gradually** make their services accessible to the persons with vision or hearing impairments. The new obligations are much stricter, while the article itself contains more provisions. Member States are now required **to ensure**, **without undue delay**, that services provided by media service providers under their jurisdiction are made **continuously and progressively** more accessible to persons **with disabilities** through proportionate measures (Article 7, Paragraph 1). Thus, not only is the word ‘encouraged’ replaced by a stricter wording, to ‘provide without undue delay’, but they it is also required that all audiovisual media services be made accessible to people with any kind of disability, and not just people with vision or hearing impairments, although the Directive continues to pays special attention to them. The process is required to be progressive and continuous, while taking into account the “practical and unavoidable constraints that could prevent full accessibility, such as programmes or events broadcast in real time”, i.e. live broadcasts (Recital 22).

In addition, media service providers are required to report regularly to the national regulatory authorities or bodies on their implementation of the accessibility measures (Article 7, Paragraph 2). In doing so, they should provide measurable data, so as to be able to measure their progress.

As a practical step towards meeting these obligations, it is envisaged that Member States shall encourage media service providers to develop accessibility action plans in respect of continuously and progressively making their services more accessible to persons with disabilities, and to communicate these plans to their national regulatory authorities or bodies (Article 7, Paragraph 3).

Each Member State shall designate a single, easily accessible, including by persons with disabilities, and publicly available online point of contact for providing information and receiving complaints regarding any accessibility issues (Article 7, Paragraph 4).

Finally, Member States are required to ensure that information on emergencies, including public communications and announcements in natural disaster situations, which are made available to the public through audiovisual media services, be provided in a manner which is accessible to persons with disabilities.

As regards the means to achieve accessibility, the Directive states that audiovisual media services “should include, but need not be limited to, sign language, subtitling for the deaf and hard of hearing, spoken subtitles, and audio description” (Recital 23).

The AVMS Directive does not cover all aspects of accessibility to audiovisual content, such as websites, online applications and electronic programme guides (EPGs), or the provision of information on accessibility of services and programmes through other materials or alternative formats. Therefore, it should be considered in correlation with the European Accessibility Act[[10]](#footnote-10) - a crucial agreement reached after decades of campaigning by the European Movement for Persons with Disabilities. It covers more specifically the “services providing access to audiovisual media services,” meaning “services transmitted by electronic communications networks which are used to identify, select and receive information on, and view audiovisual media services and any provided features, such as subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation,” resulting from the implementation of the AVMS Directive, and includes the electronic programme guides (Article 3). In addition to providing access to the service, it also obligates the service providers to inform their users of the existence or absence of accessibility before they use audiovisual media.

## The Agency’s Way Forward

The activities that the Agency took up in 2014, when it received a legal obligation to encourage audiovisual media service providers to broadcast accessible programmes, resulted in the regulatory body obtaining significant experience, starting from the basics, i.e. from the more detailed learning about the key documents, concepts and practices; through the development of the 2016-2018 Programme as the fundamental operational document; the extremely important communication with organizations representing persons with disabilities; the systematization of their media-related needs; to its efforts to reach broadcasters, which resulted in the agreed-upon text of a Draft Self-Regulatory Document on Audiovisual Media Programmes’ Accessibility.

All this has shown that, in order to be able to plan its future activities, a general policy document would be more useful to the Agency, rather than a strictly defined programme of limited duration. This is why this Policy Document outlines the key course of action, while the specific activities depend on the needs of the target group, i.e. the vision and hearing impaired persons, but also other persons with disabilities, as well as on the possibilities of the broadcasters and the providers of on-demand audiovisual services. As stated earlier in this document, the basis for the Agency's activities in the coming period – and, hence, the basis for the policy set out in this document – will be the provisions of the Directive. Its directions and activities shall be drawn from the European countries’ experiences. The goal is that, in the nearest future possible, accessible programmes for people with disabilities become a rule rather than exception in the offers of the broadcasters and other providers of audiovisual media services.

In this sense, in the future, the Agency:

 shall continue its efforts to encourage audiovisual media service providers to adopt the Draft Self-Regulatory Document on Accessibility of Audiovisual Media Programmes;

* following the adoption of the document, shall monitor its implementation and encourage and support audiovisual media service providers to adhere to it. Namely, the service providers will have to communicate to the Agency annual plans with obligations and report on their fulfillment. In terms of the obligations:
* In the first years following the enactment of the document, the national and regional TV services will need to adjust several programmes each. The providers of on-demand audiovisual media services should, in this same period, ensure that part of their catalogue offer is accessible for people with sensory disabilities. In this, the programmes should be diverse, play various roles (informative, educational or entertaining), while the selection and adjustment shall take place gradually and in accordance with the viewership and the annual incomes of each of the entities,
* In addition to programmes, broadcasters shall need to broadcast emergency information, including public announcements and communications on natural disaster situations, in a manner that is accessible for persons with disabilities,
* Considering that ensuring accessibility of programmes should be continuous and should become part of the business logic of Macedonian media service providers, they will have to think about ensuring accessibility of content before the latter’s production, and when purchasing programmes of foreign origin – i.e. check if these are already manufactured with tools that make them accessible,
* To ensure that accessible programmes will reach the target audience, the entities shall have to announce, i.e. label the accessible programmes accordingly.

The users’ needs should be the key when selecting the programmes that shall be made accessible. Hence, the Agency:

 shall continue its communication with the persons with sensory disabilities respecting their motto “Nothing for Us Without Us,” and shall:

* acquaint them with the provisions of the self-regulatory document and the opportunities it offers,
* shall encourage direct communication between the audiovisual media service providers and the organizations/representatives of persons with sensory impairments, especially in order to check how satisfied they are with the programmes made accessible to them, what suggestions they have for improving accessibility, what new media needs they have, etc. In fact, this is one of the obligations laid down in the self-regulatory act.

Communication and coordination are of extreme importance for the success of any endeavor. Therefore:

 The Agency has already created an e-mail address, dostapnost@avmu.mk, through which, for a start, communication takes place in the context of harmonizing the provisions of the self-regulatory act. Later, it will serve for communication among the audiovisual media service providers, especially for an exchange of already prepared announcements/information about emergencies, natural disasters, etc. It will also serve as a national coordination point of contact for issues related to content/programme accessibility, where the interested parties or other entities may submit complaints.

 Depending on the needs, the Agency will be preparing and implementing research, print, video, electronic and other materials or campaigns related to programmes’ accessibility for the vision and hearing impaired.

Ref. No. 01/4590/1

Date: 18 December 2020

1. United Nations Universal Declaration of Human Rights, available in Macedonian at: <https://unicode.org/udhr/d/udhr_mkd.html> [↑](#footnote-ref-1)
2. European Convention for the Protection of Human Rights, available in Macedonian at: <https://www.echr.coe.int/Documents/Convention_MKD.pdf> [↑](#footnote-ref-2)
3. UN Convention on the Rights of Persons with Disabilities, available in Macedonian at: [http://www.mtsp.gov.mk/WBStorage/Files/Konvencija%20za%20pravata%20na%20licata%20so%20invalidnost. pdf](http://www.mtsp.gov.mk/WBStorage/Files/Konvencija%20za%20pravata%20na%20licata%20so%20invalidnost.pdf)  [↑](#footnote-ref-3)
4. Constitution of the Republic of North Macedonia, available at: <http://www.slvesnik.com.mk/content/Ustav%20na%20RM%20-%20makedonski%20-%20FINALEN%202011.pdf>

5Law on Audio and Audiovisual Media Services (*Official Gazette of the Republic of Macedonia,* Nos 184/13, 13/14, 44/14, 101/14, 132/14, 142/16, 132/17, 168/18, 248/18, 27/19; and *Official Gazette of the Republic of North Macedonia,* No. 42/20), available at: https://bit.ly/3aAj01u [↑](#footnote-ref-4)
5. Electoral Code (*Official Gazette of the Republic of North Macedonia,* Nos 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, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19 and 42/20), available at:

shorturl.at/CENW4 [↑](#footnote-ref-5)
6. “Programme for Providing Access to Media for Persons with Sensory Disabilities,” available at: <https://avmu.mk/wp-content/uploads/2017/05/Programa_za_obezbeduvanje_pristap_do_mediumite_so_setilna_popre.pdf>

8 Report on the Implementation of the Programme for Providing Access to Media for Persons with Sensory Disabilities (2016 – 2018)”, available at: <https://avmu.mk/licasosetilnapoprecenost/> [↑](#footnote-ref-6)
7. Research on “Access to the Broadcasters’ Programmes Intended for Persons with Vision and Hearing Impairments – Needs and Offer,” available at: [https://avmu.mk/wpcontent/uploads/2017/06/Istrazhuvanje\_Pristap\_do\_radiodifuzerite\_za\_lica\_so\_osteten\_vid\_i\_sluh\_2016.pdf](https://avmu.mk/wp-content/uploads/2017/06/Istrazhuvanje_Pristap_do_radiodifuzerite_za_lica_so_osteten_vid_i_sluh_2016.pdf) [↑](#footnote-ref-7)
8. More information on the obligations can be found in the last chapter of this document, titled: “*The Agency’s Way Forward*”. [↑](#footnote-ref-8)
9. Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities. The translations into all official EU languages are available at: [https://eurlex.europa.eu/eli/dir/2018/1808/oj](https://eur-lex.europa.eu/eli/dir/2018/1808/oj)  [↑](#footnote-ref-9)
10. Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (Text with EEA relevance). The translations into all official EU languages are available at: [http://data.europa.eu/eli/dir/2019/882/oj.](http://data.europa.eu/eli/dir/2019/882/oj) [↑](#footnote-ref-10)