Pursuant to Article 20, Paragraph 1, Indents 1 and 15, in relation to Article 18, Paragraph 1, Indent 22, 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, 132/14, 142/16, 132/17, 168/18, 248/18 and 27/19, and *Official Gazette of the Republic of North Macedonia*, No. 42/20); Article 39, Paragraph 1, Indents 1 and 15, and Article 15, Paragraph 1, Indent 19, of the Rules of Procedure of the Agency for Audio and Audiovisual Media Services (Consolidated Text), No. 01-3732/1 dated 29.07.2019; Article 96, Paragraph 2, of the Law on Audio and Audiovisual Media Services, Article 76-c, Paragraph 1, of the Electoral Code (*Official Gazette of the Republic of Macedonia,* Nos. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 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, 140/8, 208/18 and 27/19, and *Official Gazette of the Republic of North Macedonia*, No. 98/19 and 42/20), in accordance with the Conclusion of the Agency Council, Ref. No. 02-2499/2 dated 15.06.2020, at its 22nd Session held on 15.06.2020, 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 ELECTORAL PROCESSES**

**LEGAL FRAMEWORK**

Monitoring the reporting and conduct of television and radio programme services during electoral processes, i.e. in the period before and during an election campaign, as well as during the pre-election silence, has been regulated according to the rules laid down in the Electoral Code. This legal act is also referred to by the Law on Audio and Audiovisual Media Services (LAAVMS) which stipulates that, during elections, the broadcasters are obliged to abide by the provisions regulating the elections, and that the Agency performs activities related to the elections in line with the provisions the latter are regulated by.

However, apart from these rules, broadcasters are also required to observe the provisions of the LAAVMS concerning the standards and principles of performing their business activity and the specific prohibitions against inciting hatred and intolerance, as well as the provisions of the Law on Media concerning exercise of the right to reply and correction.

This Methodology regulates the manner in which the Agency for Audio and Audiovisual Media Services shall conduct the monitoring.

**OBJECTIVES OF THE MONITORING**

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

* provide fair, balanced and unbiased media coverage, and
* 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 face-offs, 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 observe the quantitative and qualitative principles for achieving balanced reporting on the campaigns of the participants in the electoral process?
* Is there compliance with the prohibition stipulating that reporting on the activities of the authorities must not serve as electoral media presentation of any political entity throughout 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 the editors, journalists, programme hosts and presenters engaged in preparing the programmes must not at the same time take part in the campaigning activities of any parties or coalitions, i.e. 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 the broadcasters comply with the other rules laid down in the Electoral Code that apply to their programmes?

**MONITORING PERIODS**

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

* ***The period preceding the start of the election campaign***: This is the period when the monitoring conducted by the Agency begins. Namely, the monitoring of broadcasters’ programme services in terms of their compliance with the obligations prescribed by the Electoral Code for this period begins a day after the elections are announced. 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 the 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 polling day.
* ***Second round of the election campaign*** *(for those elections that are conducted in two rounds)****:*** Monitoring of the media coverage of the second round of the election campaign lasts minimum seven days and ends 24 hours before the polling 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 polling day.
* ***Periods related to the publishing of public opinion polls’ results:*** The results of the public opinion surveys concerning the participants in the electoral process must not be aired during the period of five days preceding the polling 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**

In each of the different stages of monitoring the Agency conducts (the period from the elections’ announcement until the start of the election campaign; the first round, the second round of the campaign and during the election silence), it analyzes a sample of broadcasters. When making the selection for the sample, depending on the type and specific features of the electoral process, some of the following criteria are taken into account: the level at which the broadcaster airs its programme, the share in the viewership in the case of the television stations, the radio stations’ reach,[[1]](#footnote-1) the scope of reporting of the respective media outlets in the previous electoral processes, the current programme schemes of the radio and television stations, etc.

The radio and television programming services that are not part of the respective monitoring samples shall be analyzed if necessary, based upon any complaints or presentations.

Another type of sample is the scope of contents that shall be monitored with each of the types of broadcasters. Thus, the sample taken for analyzing the televisions at the state level shall consist of their entire programme, focusing on at least one edition of their daily-information programme, broadcasted between 17:00 hrs and 24:00 hrs, which is expected to incorporate most of the information about the election campaign.

As regards the state-level radio programme services, the sample shall consist of at least the programme aired in the period from 06:00 hrs until 24:00 hrs, focusing on at least one edition of their respective daily-information programmes (the central edition, in case the media outlet has its own newscasts).

The sample for analyzing the regional and local television services shall cover at least the period from 16:00 hrs until 24:00 hrs, with the central editions of their daily-information programmes being analyzed (in case the media outlet has its own newscasts).

As for the regional and local radio stations, the sample shall cover at least the period between 07:00 hrs and 19:00 hrs, with the central edition of their newscasts being analyzed (in case the media outlet has its own newscasts).

**SUBJECT OF THE MONITORING**

**А. *Prior to the start of the election campaign***

From the day following the date of announcing the elections until the start of the election campaign, subject to monitoring shall be the observance of the provisions and prohibitions arising from the Electoral Code that are in force during this period, as follows:

* whether 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 with public powers, is used for one’s electoral media representation;
* whether the ban on broadcasting paid political advertising is being respected;
* whether the ban on broadcasting advertisements financed by budget funds is being respected;
* whether there are cases of editors, journalists, hosts or presenters of radio and television programmes simultaneously taking part in the pre-election activities of certain political parties, coalitions or candidates;
* whether the announcements for collecting signatures in support of the independent candidates’ candidacies are being aired in tune with the established rules;
* whether the rules on publishing the results of public opinion polls are being respected;
* whether the Public Broadcasting Service (PBS) broadcasts debates as stipulated by the Electoral Code.
* whether the PBS and the national broadcasters provide information on the electoral process for the persons with hearing and vision impairments.

As the Electoral Code does not stipulate any rules on the manner of reporting in the news for the period preceding the start of the election campaign, the monitoring of the information programmes shall focus on the observance of the professional principles of the business activity under Article 61, i.e. the standards and principles applying to the Public Broadcasting Service under Article 111 of LAAVMS. What shall be monitored in particular is the observance of the principle of objective and unbiased presentation of the events, while ensuring equal treatment of the diverse views and opinions and free formation of opinions on the part of the audience regarding certain events and issues.

It shall also be monitored whether the specific prohibitions laid down in Article 48 of the LAAVMS are being observed.

***B. First and second rounds of the election campaign***

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 genrewise 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 broadcasts 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 with public powers.

In this, what shall be analyzed is as follows:

* the manner of reporting in the news on the participants in the electoral process;
* the manner of reporting in the news on 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 with public powers;
* the access conditions and the treatment of the participants in the electoral process in the special information programmes;
* observance of the rules for paid political advertising and free political presentation;
* observance of the ban on 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 electoral process;
* whether the rules for publishing the results of public opinion polls are respected;
* whether the ban on inciting hatred and intolerance laid down in the LAAVMS is observed.

1. ***Election silence***

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

**MANNER OF REALIZATION**

The monitoring of the media coverage of elections shall be conducted in two ways: by analyzing a sample or the broadcasters’ entire aired programme based on recordings made by the Agency or submitted by the broadcasters, or by analyzing the data on the media coverage of the elections submitted by the radio and television stations. The data submitted by the broadcasters shall refer to specific time periods and may be organized into questionnaires/forms that the Agency has prepared and distributed beforehand. If necessary, such monitoring may also be conducted by enabling the broadcasters to access the monitoring application, i.e. the data entry and processing app, where they can insert directly the data related to the coverage of the electoral process.

All data related to the media coverage of elections, regardless of whether having been provided by the broadcasters or by the Agency itself, shall be entered into the monitoring application for further analysis.

The monitoring of the authentic footages of broadcasters’ programmes shall use the footage-viewing apps that the Agency has at its disposal.

The monitoring shall use the content analysis technique, which yields both quantitative and qualitative indicators regarding the media coverage of elections, as well as statistical analysis, in order to obtain cross-referenced data on the time that the broadcasters have allocated to each of the participants in the electoral process. In addition, discourse analysis shall be conducted as well in cases requiring a more detailed qualitative analysis (for example, of the tone and framing of the news item).

During the period of election silence, the programme shall be monitored, while content analysis – and, if necessary, discourse analysis – shall be performed only of items/contents the broadcasting of which constitutes potential violation of the election silence.

The monitoring of media reporting during elections shall be conducted by the employees of the Programme Affairs Department in the Agency for Audio and Audiovisual Media Services, associates employed in other departments of the Agency's Professional Services, as well as external associates engaged through a temporary staffing agency. The number of external associates shall be determined specifically for each particular electoral process and shall differ from one monitoring period to another, due to the varying numbers of media outlets covered. The key requirements for selecting external associates are that the latter hold a university degree, are not members of any political party and are not employed in any radio or television station (which they need to verify by means of a written statement).

**FORMS OF ELECTORAL MEDIA PRESENTATION**

The Agency’s monitoring covers all forms of electoral media presentation aired as part of the broadcasters’ programming services.

The forms of electoral media presentation include daily-information broadcasts (newscasts and journals), special information programmes (interviews, debates or TV/radio face-offs, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes), free political presentation and paid political advertising.

The broadcasts that are not related to the elections shall be analyzed if they involve participation or appearance of participants in the electoral process and/or representatives of the (state and local) government bodies, state institutions and organizations and legal and other entities entrusted by law with public powers. The programmes intended for juvenile audiences must not be used for electoral media presentation.

**DAILY INFORMATION BROADCASTS (NEWSCASTS, JOURNALS)**

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

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

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

In addition, also monitored shall be the issues regulated by the Law on Audio and Audiovisual Media Services (respect for the professional standards and principles, and the specific prohibitions).

**The quantitative aspect of balanced reporting**

The quantitative analysis of balanced reporting implies measuring of the duration of all news items directly or indirectly related to the elections, especially items related to the activities of the participants in the electoral process, items covering the activities of the authorities during the election campaign, editorial reviews of the election campaign, editorial items and commentaries related to the electoral process, journalist surveys, items concerning public opinion polls, etc., which are then categorized (coded), and entered into a special data processing software. The sports news shall not be analyzed (unless they include participants in an election campaign and/or representatives of state and local government bodies, state institutions and organizations, or legal and other persons entrusted by law with public powers), as shall not the weather forecasts or some other type of an info-service, if it is an integral part of the daily information broadcasts.

An exception to this shall be the news of the Public Broadcasting Service, where all news items shall be measured and coded in the software, so as to establish if the airtime distribution rule (30%+30%+30%+10%) is being observed.

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

***Principles of balance: proportionality and equality***

There are two principles in accordance with which, during different electoral processes, the broadcasters shall ensure balanced reporting: proportionality and equality. It is important to emphasize that the broadcasters are not expected to ensure balanced reporting on the various political entities in each separate daily-information broadcast, but throughout the separate reporting periods in the course of the election campaign. This methodological determination arises from the Explanatory Memorandum of Recommendation R (2007) 15 of the Council of Europe on the 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 shall depend 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 cover 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, the broadcasters shall follow the principle of proportionality in accordance with the number of verified candidate lists. This practically means that all broadcasters (national, regional and local) that cover the campaign should allocate approximately the same amount of airtime in their respective newscasts 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 by combining the two principles – equality and proportionality – as follows:
   * during mayoral elections, all broadcasters covering 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;
   * during elections of members of the municipal councils 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 the campaigning activities.

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

a. Broadcasters at the national level covering an election campaign in their daily-information broadcasts 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 amount of airtime to all mayoral candidates whose campaigns have nearly the same intensity, and, at the elections for members of the councils, approximately the same extent of representation to the participants in the election campaign who have the same number of verified candidate lists and whose campaigns are rather similar in their intensity.

b. Broadcasters at the regional level covering the election campaign in their daily-information broadcasts should report on the activities of all participants in the campaign who have submitted lists in the municipalities in their respective regions. In this, all mayoral candidates whose campaigns are of nearly the same intensity should receive approximately the same airtime, while the participants in the election campaigns for council members who have the same number of verified candidate lists 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 their daily-information broadcasts should report on the activities of all participants in the election campaign who have submitted lists in the election unit covered by that particular broadcaster. All mayoral candidates and participants in the campaign who have lists of councilors, whose campaigns have nearly the same intensity, should be ensured approximately the same amount of airtime.

1. As regards the Public Broadcasting Service (PBS), the *Electoral Code* envisages achieving balanced reporting in its daily-information broadcasts by way of a two-stage procedure. Namely, the PBS should, first of all, ensure equal access by dividing the total news airtime into four parts, as follows:

* during 30 % of the airtime, it shall broadcast news items about daily events in the country and in the world;
* it shall dedicate another 30 % of the airtime to the activities of the ruling political parties;
* it shall allocate yet another 30 % of the airtime to 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, and of the independent candidates.

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 non-parliamentary parties and the independent candidates), it should distribute the airtime following the principle of balance that is implemented to that particular type of elections.

In conducting the monitoring, the Agency shall implement the first degree of ensuring equal access, which refers to dividing the airtime in the daily-information broadcasts into four parts, as follows:

a. The 30 % of the newscasts set aside for reporting on the daily events in the country and in the world shall incorporate the airtime dedicated to items about the 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 the civil society sector, the economy, etc.

b. The 30 % set aside for the opposition shall include news items about the campaigning activities of the political parties that constituted 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 news 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 news items about the campaigning activities of the non-parliamentary political parties and their coalitions, and items about the independent candidates.

e. If sports news constitute an integral part of the PBS’s newscasts, their duration shall be deducted from the total news airtime, the remaining portion being the airtime that should be divided into four parts (30%+30%+30%+10%). Those sports news items that include appearance of politicians, candidates or participants in an election campaign, shall be analyzed.

f. The airtime used to announce the news headlines and the credits shall not be calculated into the total airtime of the PBS’s newscasts, nor shall the weather forecasts (if they are an integral part of the newscasts) or any other type of info-service.

**Qualitative aspects of balanced reporting**

The collected data about the quantity of reporting dedicated to different political entities do not yield a complete picture of the pluralism the media manifest. The public notion of the political parties, candidates 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 represented. Bearing this in mind, the monitoring of reporting in the daily-information broadcasts shall also analyze 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,* issued in 2009 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, as well as on the *Guidelines for Election Coverage by Broadcasting Media in Transitional Democracies,* by “Article 19”.[[2]](#footnote-2)

These elements of the monitoring 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 type of assessment is applied to the cases where the journalist or the editor use explicit words or sentences to express a visibly positive or negative attitude towards a particular political entity.
* The frame (framing) within which the relevant entity is being reported on. The frame 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 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, proceedings initiated to establish 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 shown in such a way that makes it look larger than it actually is, while the shooting angle used at the rallies of other participants in the campaign makes them seem to be attended by fewer people. 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 the item a warning, satirical, patriotic, optimistic or other tone; use of manipulative tones of voice or sarcasm on the part of the reporters and the presenters; etc.;
* Choice of words (or sentences) when reporting on a political entity, or when presenting information;
* The number and total duration of the direct speech instances (statements), which the broadcaster provides to the participants in a campaign, the candidates, the incumbents and other relevant entities, shall be measured as qualitative aspects of balance as well (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, while paraphrasing the statement of the opposition leader);
* Respect for the fundamental professional journalistic standards in reporting.
* The manner of reporting in the newscasts about the activities of state authorities, municipal authorities and the City of Skopje, the state institutions and organizations, as well as legal and other persons entrusted by law with public powers.

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

***Reporting on the activities of incumbents***

The time and the manner in which broadcasters report on the activities of incumbents (the President, the Assembly, the Government, the local government, as well as the incumbents of legal entities entrusted by law with exercising pubic powers) 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 (2010), the fact that media outlets report on the incumbents when the latter perform their official duties “should not be misused as a means to give them an unfair advantage, and campaign events should not be confused with the issues of State.”[[3]](#footnote-3) Also, Recommendation R (2007) 15 of the Council of Europe concerning the measures related to media coverage of election campaigns stipulates that “No privileged treatment should be given by broadcasters to public authorities during such programmes.”[[4]](#footnote-4)

These efforts arise from the fact that the incumbents are at the same time 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 in 2009 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.).[[5]](#footnote-5)

Due to this, 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 with public powers, must not serve as electoral 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 incumbents 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 electoral media presentation (most often related to infrastructural facilities or facilities associated with social activities, meetings or promising 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 2009 *Guidelines for Media Analysis during Election Observation Missions* prepared by the OSCE/ODIHR, the Human Rights Directorate and the Council of Europe and EC’s Venice Commission, the events involving incumbents may be “truthful and relevant” (such as national holidays or anniversaries), truthful but marginal (such as launches of public facilities), or pseudo-events (events created and managed by the government with the aim of obtaining better and broader media coverage)”.[[6]](#footnote-6)

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 not serve the purposes of the election campaign of the ruling parties. Various European and international documents and handbooks provide guidelines about what to do in such situations.[[7]](#footnote-7) They may decide to report only about “matters of the State,” or take a critical stand in the news items about the 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 shall regularly provide statements from the opposition parties and/or civil society representatives as well, or they may adopt an editorial decision to implement a different approach whereby they will necessarily be guided by the professional journalistic principles and their own editorial independence and accountability.

The monitoring shall establish if certain reporting has been used for campaigning purposes by intersecting the quantitative and qualitative indicators obtained from the daily-information programmes. Whether any news item serves one’s campaign can clearly be noted by the 'favouring' or 'positive' tone and framing used in such items; by the fact that it reports only about the successes and not the failures, at the same time lacking independent/critical standpoints; the fact that such items link the activities, projects, results of the government's policies with a political party that participates in the government; the fact that political party representatives appear alongside the government representatives; the fact that the office holders of any ruling party present the results of the government policies as their party’s achievements, etc. Any frequent broadcasting of positively framed news items used for the purposes of the ruling parties’ election campaign is undoubtedly a violation of the Electoral Code.

Considering that the reporting on incumbents’ 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:

* Regarding those media that are part of the sample for analysis, the total airtime that these media outlets set aside for news items dedicated to the government’s activities shall be measured regularly so as to obtain a complete picture of the extent to which the government is present in the daily-information programmes. In this, also monitored is the portion of the news items that consists of direct speech (audio statements) of the politicians.
* In case a complaint arrives against a broadcaster that is not part of the sample, claiming that the latter’s reporting serves as electoral media presentation of the incumbents, an analysis shall be conducted of a sample of its central daily-information broadcasts.
* The results regarding government’s representation shall also be included in the overall assessment of balanced reporting in the daily-information programmes of each of the broadcasters in particular.

***Other qualitative aspects of reporting***

*Objective and accurate reporting*

The evaluation of the “tone” of reporting indicates whether a media outlet’s attitude towards a particular political entity is positive, negative or neutral. However, this is not sufficient to assess whether the outlet reports objectively and accurately. Continued 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 against the actual events or monitoring how several media outlets report on one and the same event – case study).

Objective reporting is one of the fundamental principles of professional journalistic reporting and, as such, is not subject to legislation concerning election coverage. These aspects enter the sphere of ethical and professional standards and are, therefore, regulated by journalists’ codes, i.e. by self-regulation. The Agency’s monitoring can help obtain certain qualitative findings about objectivity in reporting, which represent 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. Making this distinction is particularly important when reporting on an election campaign, so that the audience can clearly distinguish between the information on a certain event and the comments about it. This is precisely why it is extremely 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. The broadcasting of news items that explain survey results may sometimes be aimed at manipulating the voters’ opinion, especially when the surveys involve non-representative 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 the Electoral Code, so that the audience may be able to assess their reliability.

*Hate speech*

During the monitoring, the possible presence of 'hate speech' in reporting on the election campaign shall also be subject to observation. Refraining from the use of any hate speech falls within the basic principles of journalism, and has also been elaborated in a number of international documents on which this Methodology is based. These underline that the limits to freedom of expression during an election campaign should be minimal, “as the election campaign is precisely the moment when a variety of views, even when expressed in an aggressive manner, should be disseminated,” however, in this, one should take into consideration the specific situation of the society at issue and the potential effect on the audience.

*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.”[[8]](#footnote-8)

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 syntagm ‘hate speech’ 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”.[[9]](#footnote-9)

In March 2016, the European Commission against Racism and Intolerance (ECRI) issued a *General Policy Recommendation No. 15: Combating Hate Speech*, in which it gave an extended definition of hate speech as entailing "the use of one or more forms of expression – namely, the advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat of/against such person or persons and any justification of all these forms of expression – that is based on a non-exhaustive list of personal characteristics or status that includes “race”, colour, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.”[[10]](#footnote-10)

Hate speech is regulated by 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 contents that threaten national safety, incite to violent destruction of the constitutional order, call to military aggression or armed conflict, incite or spread discrimination, intolerance or hatred based on race, skin colour, descent, national or ethnic origin, sex, gender, sexual orientation, gender identity, affiliation with a marginalized group, language, citizenship, social background, education, religion or belief, political conviction, other kinds of conviction, disability, age, family or marital status, wealth, health condition, personal trait or social status, or any other grounds. 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 analyzing each content and the manner in which a broadcaster has acted with regard to it, one must apply the three-partite test of the European Court of Human Rights:

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

In an attempt to provide directions on where to set the boundaries of “admissible” speech during electoral processes, the 2009 Joint Statement on the Media and Elections by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Media Freedom Representative, the Special Rapporteur on Freedom of Expression of OAS (Organization of American States) and the Special Rapporteur on Freedom of Expression and Access to Information of ACHPR (African Commission on Human and Peoples' Rights, states the following:

“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]](#footnote-11)

A useful tool, both for the Agency and for 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 intent 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]](#footnote-12) including grounds such as political opinion or sexual orientation.

Methodologically, the evaluation of this qualitative aspect of reporting shall be based on qualitative discourse analysis of the actual content (statement, message, etc.), also taking into consideration the context in which it was expressed, the international standards and the provisions laid down in the Law on Audio and Audiovisual Media Services. It must be emphasized that, when monitoring, in order to determine whether the three-partite test of the European Court on Human Rights has been met, the Agency does not analyze only what has been said, but also – and above all - 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 from a regulatory point of view, it is important whether the media outlet reported about it professionally, i.e. placed the statement within an appropriate context and indicated clearly 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. In fact, 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’ that is part of a campaign run by the political entities, but which does not represent direct call to violence or destruction of the constitutional order, or incitement to hatred and intolerance on any grounds under Article 48 of the LAAVMS. The recommendation that media should be free from accountability 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 within the political context, especially owing to the existing opportunity 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 prohibited under Article 48 of the Law on Audio and Audiovisual Media Services);
* represent sources of hate speech themselves;
* report unprofessionally in the cases where they air statements containing hate speech without providing balance through furnishing an opposing view, dissociating themselves, or providing adequate contextual explanation that would mitigate these statements’ effect. In such cases, the circumstances are always graver if such statements are part of previously recorded news 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 presents a standpoint that constitutes hate speech, is to warn him/her that such statements are unacceptable for most of the public; should the guest continue to talk in the same fashion, warn him/her that such statements are contrary to the principles of journalism and unacceptable for the media outlet, and, as a last resort, strip him/her of their right to speak in the show. If the show is a live debate or face-off, 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**

Special information programmes shall refer to: programmes intended to inform the citizens about the manner and technicalities of voting and the exercise of their voter’s right, and the political and information programmes realized genrewise in the form of interviews, debates or TV/radio face-offs, current-affairs information programmes, current-affairs information programmes with a documentary approach and thematically-specialized information programmes.

The first category of special information programmes includes programmes intended to inform the citizens about the manner and technicalities of voting and the exercise of their voter’s right. The broadcasting of these programmes constitutes a specific obligation of the Public Broadcasting Service.

As for the other types of special information programmes, i.e. interviews, debates and face-offs, the obligation applies to provide equal conditions for access to the broadcasters, as well as balanced, fair and unbiased treatment. In this, the evaluation of whether these obligations have been met is not made for each show separately, but rather for a series of interviews, debates or face-offs that the broadcaster shall have organized throughout the election campaign.

Balance in these programmes is achieved by observing the principles of equality and proportionality, 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, based on 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 TV and radio stations’ invitations to participate in their interviews, debates, or face-offs. If the broadcaster has duly invited the candidates or the representatives of the entities participating in a campaign to take part in its programme, but the latter have not effectuated their right to access, the media outlet should clearly stress this fact during the broadcasting of such information programmes. The monitoring shall take note of this so that, in such cases, certain imbalance shall be expected to occur, for which the broadcaster shall not be 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 outlets create an imbalance themselves. The Agency shall treat this as a component of the assessment whether a broadcaster has ensured balance throughout its entire programme.

Special information programmes, i.e. the interviews, debates and face-offs, 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 entities to the critical eye of the public, taking into account the citizens’ interests.

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.

The *Code* stipulates that the Public Broadcasting Service is obligated to broadcast debate broadcasts during the period following the elections’ announcement until the end of the 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 public broadcaster and the commercial broadcasters that shall decide to air interviews, debates and face-offs, must observe the legal and professional rules.

**Forms of direct access to the audience/voters**

Direct access to voters shall refer to free political presentation and paid political advertising. What is typical for these two is that the candidates or participants in an election campaign shall directly and freely communicate their political messages to the voters without any editorial intervention on the part of the journalist or the broadcaster at issue.

**Paid political advertising**

Paid political advertising shall include advertisements, announcements, political campaigning spots, music videos serving as anthems of the participants in the election campaign, live broadcasts or footages of rallies, meetings and other appearances of the participants in the election campaign.

As regards paid political advertising (PPA) during the period from the day the elections are called until the beginning of the election campaign, the Agency shall focus its monitoring on the following:

* whether the ban on airing 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 candidacies of groups of voters are aired only within marked advertising slots during the allowed time for advertising per clock hour of broadcasted programme, which is 6 minutes in total;
* whether the time allocated for the advertisements and announcements for collecting signatures to support independent candidates is maximum 2 minutes per 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 content prescribed, i.e. whether they contain only the basic data, such as who the signatures are collected for, at what locations 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 State’s Budget, the budgets of the municipalities and the City of Skopje or any other persons who have been entrusted by law with pubic powers, are being aired.

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

* whether the broadcasters covering the elections exceed the total limit of additional time for PPA per clock hour of broadcasted programme or not;
* whether they schedule the time for PPA in accordance with the provisions of the Electoral Code;
* whether, when merging the slots of PPA by one political party or candidate, the broadcaster is careful not to air PPA by one and the same political party or candidate twice in a row when carrying the PPA over from one clock hour into the next, and whether, in such situations, the broadcaster airs alternately PPA by the ruling and by the oppositional political parties, respectively, in the subsequent clock hours;
* whether the PPA is properly and visibly marked as “paid political advertising” and clearly separated from other media contents;
* whether the entity that has ordered the paid political advertising is clearly identified in all the forms of PPA;
* whether the ban on minors’ participation in paid political advertising is observed;
* whether the ban on broadcasting PPA during newscasts, special information programmes, educational and children’s 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 paid political advertising is observed, and
* whether the Public Broadcasting Service observes the ban on broadcasting paid political advertising.

During the periods of election silence in both the first and the second rounds, observance of the ban on broadcasting PPA shall 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 electoral process, free political presentation may 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 following aspects shall be monitored:

* whether the Public Broadcasting Service (PBS) airs free political presentation of the participants in the electoral process in line with the principles of balanced coverage of elections, i.e. the principle of equality in the 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 programming services of the Public Broadcasting Service should be broadcast in the period from 16:00 until 23:00 hrs;
* whether the programming service dedicated to covering the Parliament’s activities provides three hours of free political presentation for the campaigns of the political parties represented in Parliament, and one hour of free political presentation for the campaigns of the submitters of lists that are not represented in Parliament, respectively, and
* whether free political presentation is adequately and visibly marked as “free political presentation” throughout the entire duration of the broadcast.

**ELECTION SILENCE**

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 time for the citizens to make their decision independently on how they shall use their right to vote. During this period, the Agency shall perform its monitoring by way of recording and watching the programmes of all media included in the sample. In this, it shall monitor whether the broadcasters have aired:

* 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, political party representatives and officials of the state administration bodies.

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| **Ref. No. 01-2543/1**  **15.06.2020**  **Skopje** | **Agency for Audio and Audiovisual**  **Media Services**  **President of the Council,**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Lazo PETRUSHEVSKI** |

(original hand-signed)

1. The data are obtained from the regular quarterly reports on the radio stations’ reach and the TV stations’ share in the total viewership, which are prepared for the Agency’s needs using a representative sample of respondents. [↑](#footnote-ref-1)
2. *Guidelines for Election Broadcasting in Transitional Democracies*, August 1994 (reprinted April 1997), Article 19, available at: <https://www.article19.org/data/files/pdfs/tools/electionbroadcastingtrans.pdf> [↑](#footnote-ref-2)
3. Election Observation Handbook (Sixth Edition) (2010), OSCE Office for Democratic Institutions and Human Rights. Warsaw: Organization for Security and Co-operation in Europe. p. 63, available at: <https://www.osce.org/odihr/elections/68439?download=true> [↑](#footnote-ref-3)
4. Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns, available via: <https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d4a3d> [↑](#footnote-ref-4)
5. Guidelines on Media Analysis During Election Observation Missions (2009) by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission, p. 14, available at: <https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2009)031-e> [↑](#footnote-ref-5)
6. *Ibid.*  [↑](#footnote-ref-6)
7. 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=0ahUKEwjryqamvtHJAhVEBSwKHe4kAHcQFgglMAE&url=http%3A%2F%2Fwww.osce.org%2Fodihr%2F92057%3Fdownload%3Dtrue&usg=AFQjCNFPY4A75iYSjRTFH8Y3j3SlIBfk8Q&cad=rja> [↑](#footnote-ref-7)
8. *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> [↑](#footnote-ref-8)
9. 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-lgbt\_docs/CM\_Rec(97)20\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/CM_Rec(97)20_en.pdf)

   [↑](#footnote-ref-9)
10. ECRI General policy recommendation No. 15 on Combating Hate Speech, available at: <https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01> [↑](#footnote-ref-10)
11. 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 (2009), available at: <http://www.osce.org/fom/37188>. [↑](#footnote-ref-11)
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&usg=AFQjCNGH2-0aZoeNNqKfN8ISHicFRbqqAw&cad=rja> [↑](#footnote-ref-12)