

Pursuant to Article 18, Paragraph 1, Indent 22, in relation to Article 20, Paragraph 1, Indents 1 and 15, 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 Article 15, Paragraph 1, Indent 19, and Article 39, Paragraph 1, Indents 1 and 15, of the Rules of Procedure of the Agency for Audio and Audiovisual Media Services No. 01-4351/1 dated 29.08.2014, in accordance with Article 96, Paragraph 2, of the Law on Audio and Audiovisual Media Services, Article 76-c, Paragraph 8, 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, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 32/14, 196/15, 35/16, 97/16, 99/16, 16/16, 142/16, 67/17, 12/17, 35/18, 99/18, 140/8, 208/18 and 27/19), and the Conclusion of the Council of the Agency, No. 02-651/2 dated 07.02.2019, at its 1st session held on 07.02.2019, the Council of the Agency for Audio and Audiovisual Media Services adopted the following

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



LEGAL FRAMEWORK

The monitoring over the reporting and conduct by the television and radio programme services in the period during election processes, i.e. in the period before and during an election campaign, as well as during pre-election silence, has been regulated according to the rules laid down in the Electoral Code (*Official Gazette of the Republic of Macedonia*, Nos 40/06, 136/08, 44/11, 51/11, 142/12, 31/13, 34/13, 14/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18 and 27/19). This legal act is also referred to by the Law on Audio and Audiovisual Media Services (*Official Gazette of the Republic of Macedonia*, Nos 184/13, 13/14, 44/14, 101/14, 132/14, 142/16, 132/17, 168/18, 248/18 and 27/19), which, in its Article 96, stipulates that: "During an election campaign, broadcasters are obligated to abide by the provisions that regulate elections in the Republic of Macedonia", and that "the Agency performs activities related to the elections in the Republic of Macedonia in accordance with the provisions that regulate elections...". However, apart from these rules, broadcasters are also required to observe the provisions of the Law on Audio and Audiovisual Media Services (LAAVMS), especially those concerning the standards and principles of performing their activity under Articles 61 and 111, as well as the specific prohibitions under Article 48 related to incitement to hatred and intolerance.

This methodology summarizes all relevant provisions that regulate media coverage during elections and defines more closely the manner in which the Agency for Audio and Audiovisual Media Services shall conduct monitoring of the media coverage of elections.

MONITORING OBJECTIVES

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

-  provide fair, balanced and unbiased media coverage;
-  offer a level playing field to all participants in the election campaign in terms of access to all forms of media presentation: news, special information programmes (interviews, debates, TV/radio duels, current-

affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes), free political presentation and paid political advertising.

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

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

MONITORING PERIODS

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

- ✎ ***The period before the start of the election campaign:*** This is the period when monitoring conducted by the Agency begins. Namely, monitoring of the broadcasters' programme services in terms of their compliance with the obligations prescribed for this period by the Electoral Code begins 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 media coverage of the election campaign begins at 00:00 hrs on the first day of the first round of the campaign, and ends 24 hours before the voting day.
- ✎ ***Second round of the election campaign (for those elections that are conducted in two rounds):*** Monitoring of media coverage of the second round of the election campaign lasts minimum seven days and ends 24 hours before the voting day.
- ✎ ***Election silence:*** Monitoring of the election silence, in both the first and the second rounds (for those elections that are conducted in two rounds) of the election campaign begins at 00:00 hrs on the day before the voting, and ends at 19:00 hrs on the voting day.

- 📁 **Periods related to publishing the results of public opinion polls:** The results of the public opinion surveys related to the participants in the electoral process must not be aired during the period of five days before the voting day both in the first and in the second rounds of the elections (for those elections that are conducted in two rounds).

SCOPE AND SAMPLES

A. Prior to the start of the election campaign

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

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

All remaining radio and television programme services will be analyzed upon receipt of petitions and complaints.

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

B. First round of the election campaign

Monitoring during the first round of the election campaign is the most extensive and it covers most of the television and radio programme services. The choice of broadcasters to be monitored, primarily depends on the type of the election process and on the current programming schemes of the radio and television media outlets. This shall also define the manner in which they will be monitored, whether by analyzing the recorded programme or through reports submitted by the radio and television programme services. In any case, the monitoring shall exclude the following:

- 📁 the Public Broadcaster's programme services that do not cover the elections, or report on them to a very small extent;
- 📁 the non-profit university radios designed to inform their target audience about matters related to their studies and student life;
- 📁 the television programme services of the trade and broadcasting companies which do not cover the elections or do this to a very small extent;
- 📁 the regional and local radio stations which do not cover the elections or do this to a very small extent, as well as regional and local radio stations with a weekly reach of less than one percent.¹ The data on the

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

reach are obtained through a survey conducted for the needs of the Agency by an independent research agency engaged through a public procurement procedure.

Possible action concerning these programme services will be taken in case of receipt of petitions or complaints.

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, with the focus on at least one edition of their daily-information programme (the central edition, in case the media outlet has its own newscasts).

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

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





C. Second round of the election campaign

The scope of broadcasters and the sample to be monitored during the second round of the elections are defined subsequently, depending on the election process and the results of the first round.

SUBJECT OF THE MONITORING

A. 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, the monitoring shall follow the observance of the provisions and prohibitions of the Electoral Code 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 to perform public competences, 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 political parties, coalitions or candidates;

- 📁 whether the announcements for collecting signatures in support of independent candidates' candidacies are being aired in tune with the established rules;
- 📁 whether the rules on publishing results of public opinion polls are being respected;
- 📁 whether the PBS broadcasts debates as stipulated by the Electoral Code.

Since, for the period prior to the start of the election campaign, the Electoral Code does not stipulate any rules on the manner of reporting in the news, 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 of 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 different 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 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 by genre as interviews, debates or TV/radio face-offs, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes, as well as the forms of direct access to voters, such as free political presentation and paid political advertising.

Also analyzed shall be the content of the shows that are not related to the elections, if these involve participation or appearance of participants in the election campaign and/or representatives of the (state and local) government bodies, state institutions and organizations or legal and other entities entrusted by law to perform public duties.

In this, what shall be analyzed is as follows:

- 📁 the manner of reporting in the news about the participants in the electoral process and about the activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences;
- 📁 the access conditions and the treatment of the participants in the election campaign 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 election campaign;
- 📁 whether the rules on publishing the results from public opinion polls are respected;
- 📁 whether the ban on inciting hatred and intolerance laid down in Article 48 of LAAVMS is observed.

C. Election silence

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

MANNER OF REALIZATION

The monitoring of election media coverage of elections is conducted in two ways: by analyzing a sample or the total programme aired by the broadcasters based on recordings made by the Agency or submitted by the broadcasters, or by analyzing the data on media coverage of the elections submitted by the radio and television stations. The data submitted by the broadcasters refer to specific time periods and can be organized into questionnaires/forms that the Agency prepares and distributes in advance. If necessary, such monitoring may also be conducted by enabling broadcasters to access the monitoring application, i.e. the data entry and processing, where they can enter the data related to the coverage of the election process directly.

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

During the monitoring conducted upon authentic recordings of the broadcasters' programmes, the applications for viewing the recordings that the Agency has at its disposal shall be used.

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

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

The monitoring of the media reporting during elections is 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 Service, as well as external associates engaged through an agency for temporary employments. The number of external associates is determined separately for each particular electoral process and differs from one monitoring period to another, due to the different number of media outlets included. The key requirements for selecting external associates are that the candidate possess a university degree, is not a member of any political party and is not employed in any radio or television station (which they need to verify by a written statement), and that he/she possess computer skills.

FORMS OF MEDIA COVERAGE OF ELECTIONS

Relevant legal provisions

"22. Forms of election media presentation shall refer to: daily-information shows, programmes that provide the participants in the election campaign with direct access to the voters, and special information shows" (*Electoral Code, Article 2, Paragraph 1, Item 22*);

"(1) Broadcasters, i.e. the Public Broadcasting Service, the trade and broadcasting companies and the electronic media (Internet portals) that have decided to cover the elections, are obligated to do so in a fair, balanced and unbiased manner throughout their programmes.

"(2) Broadcasters, regardless of the language in which they broadcast their respective programming services, are obligated during to offer all participants in the election campaign a level playing field throughout

the election campaign in terms of access to all forms of electoral media presentation – news, special information programmes (interviews, debates, TV/radio duels, current-affairs programmes, current-affairs programmes with documentary approach and thematically specialized information programmes), free political presentation and paid political advertising.

“(3) Programmes designed for juvenile audience must not be used for election-related presentation in the media.” (*Electoral Code, Article 75, Paragraphs 1, 2 and 3*)

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

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

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

DAILY-INFORMATION PROGRAMMES (NEWSCASTS, JOURNALS)

Relevant legal provisions

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

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

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

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

c) with regard to local elections:

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

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

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

“Reporting about the regular activities of the state bodies, the bodies of the municipalities and the City of Skopje, the state institutions and organizations, as well as the activities of legal and other entities entrusted by law to perform public competences, in the programmes of the broadcasters and the programme service dedicated for broadcasting the activities of the Parliament of the Republic of Macedonia, must not be used for electoral media presentation of any political entity during the period from the day of calling the elections until their completion.” (*Electoral Code, Article 75-b*)

“(4) Broadcasters must not broadcast paid political advertising in the newscasts, special information programmes, educational and children programmes or during live broadcasts of religious, sports, cultural,

entertainment and other events.” (*Electoral Code, Article 76, Paragraph 4*)

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

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

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

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

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

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

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

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

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

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

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

- fostering and development of the humane and moral values of the human beings and protection of the privacy and dignity of each person;
- ensuring equal freedoms and rights irrespective of the sex, race, national, ethnic or social background, political or religious convictions, wealth and social status of the individual and the citizen;
- fostering the spirit of tolerance, mutual respect and understanding among individuals of diverse ethnic and cultural backgrounds;
- protection of the identity of the victims of violence;
- respect for the presumption of innocence;
- promotion of international understanding and cooperation, the public notion of fairness and need to protect democratic freedoms;
- objective and unbiased presentation of events, ensuring equal treatment of diverse views and opinions, while enabling the audience to freely form their opinion on certain events and issues;
- respect for the confidentiality of the source of information;

- guaranteeing the right to reply and correction, and
- autonomy, independence and accountability of the editors, journalists and other authors in creating their programmes and their editorial policy.” (*Law on Audio and Audiovisual Media Services, Article 61, Paragraph 1, Indents 1, 2, 3, 4, 5, 6, 9, 11, 12 and 13, Principles*)

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

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

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

The first issue is balanced reporting, which holds both a quantitative and a qualitative aspect. 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 election campaign, while the qualitative aspect refers to the approach, i.e. the *tone of reporting* and the *framing*.

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

In addition, focus is also placed on issues regulated by the Law on Audio and Audiovisual Media Services (respect for the professional standards and principles under Articles 61 and 111, and the specific prohibitions under Article 48).

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 election campaign, items covering the activities of the authorities during the election campaign, editorial reviews of the election campaign, editorial items and commentaries related to the election process, journalist surveys, items concerning public opinion polls, etc., which are later categorized (coded), and entered into a special data processing software.

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

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

Principles of balance: proportionality and equality

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

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

1. During presidential elections, the principle of equality shall be followed, where all broadcasters that have chosen to 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, broadcasters shall follow the principle of proportionality in accordance with the number of verified candidate lists. Practically, this means that all broadcasters (national, regional and local) that follow the campaign should allocate approximately the same amount of airtime in 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 through a combination of 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 councils of the municipalities and the City of Skopje:
 - 📄 broadcasters at the state and regional levels shall ensure balance in accordance with the principle of proportionality based on the number of verified candidate lists for members of the municipal councils i.e. the City of Skopje, while
 - 📄 broadcasters at the local level shall ensure balance in accordance with the principle of equality.

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


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

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


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


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

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

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


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


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


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

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

Starting out from:

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

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

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

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

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

b. The 30 % set aside for the opposition shall include 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, apart from news items about the campaigning activities of the non-parliamentary political parties and their coalitions, items about the independent candidates as well. Although the candidates of the groups of voters are not covered by this legal obligation, the Agency expects the PBS to report on these candidates as well.

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

f. The time spent announcing the news headlines and the credits shall not be calculated into the total time of the newscasts either, nor shall the weather forecasts (if part of the newscasts) or any other type of informative service.

Reporting on the activities of government officials

The time and the manner in which broadcasters report on the activities of government representatives (the President of RM, the Assembly, the Government, the local government, as well as the incumbents of legal entities entrusted by law to perform public competencies) during an election campaign is a very important aspect in establishing if there is balanced reporting. Namely, as indicated in the sixth edition of the OSCE's Election Observation Handbook (2007), the fact that media outlets report on the incumbents when the latter perform their official duties “should not be misused as a means to give them unfair advantage, and campaign events should not

be confused with issues of state.”² Also, Recommendation R (2007) 15 of the Council of Europe concerning the measures related to media coverage of election campaigns stipulates that “broadcasters must not give preferential treatment to government officials in the course of daily news programmes.”³

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

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

The Agency expects the media to be persistent and consistent in their efforts to distinguish between the regular activities of the government officials that are relevant to performing their duties and the functioning of the state, and those activities that they perform as representatives of political parties for the purpose of election media presentation (most often related to infrastructural facilities or facilities associated with social activities, meetings or promises of measures that will positively affect certain categories of citizens, such as the pensioners, the students, the farmers, or some other type of promotional appearances). As a matter of fact, , according to the Guidelines for Media Analysis During Election Observation Missions prepared by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Directorate and the Council of Europe and EC’s Commission for Democracy through Law (the Venice Commission), the events involving incumbents may be “truthful and relevant” (such as national holidays or anniversaries), truthful but marginal (such as launch of public facilities), or pseudo-events (events created and managed by the government with the aim of obtaining better and broader media coverage)”.⁵

During the election campaign, the media may report on the regular activities of the government authorities, but should in this take heed that their manner of reporting does not serve the purposes of the election campaign of the ruling parties. Various European and international documents and handbooks provide guidelines about what

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

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


⁴ Guidelines on Media Analysis During Election Observation Missions, by the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Venice Commission, p. 14, available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0ahUKEwjryqamvtHJAhVEBSwKHe4kAHcQFggsMAI&url=http%3A%2F%2Fapt.sze.hu%2Fdownloadmanager%2Fdownload%2Fnohtml%2F1%2Fid%2F18970%2Fm%2F1631&usq=AFQjCNFjaEvu0lQJ1wO1WlrEQjEM6tiyxg&cad=rja>


⁵ *Ibid.*


to do in such situations.⁶ They may decide to report only about “state matters”, or take a critical stand in the news items about activities related to the pre-election period. Or, they may decide that, alongside the statements or activities of the incumbents taking part in the campaign, they will regularly provide statements from the opposition parties and/or civil society representatives, or they may adopt an editorial decision to implement a different approach whereby they will be necessarily guided by the professional journalistic principles and their own editorial independence and accountability.

The monitoring establishes if certain reporting has been used for campaigning purposes by way of 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 'favoring' or 'positive' tone and framing it uses, and by the fact that such items connect the activities, projects, results of the government's policies with a political party that participates in the government; in that political party representatives appear together with the government representatives; in that the office holders of any ruling party present the results of the government's policies as their party's achievements, etc. Any frequent broadcasting of positively framed news items for the purposes of the ruling parties' election campaign is undoubtedly a violation of the Electoral Code.

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

 Regarding those media that are part of the analysis sample, the total airtime these media outlets set aside for news items dedicated to the government's activities shall be measured regularly in order 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 of a complaint against a broadcaster which is not part of the sample, claiming that the latter's reporting serves as electoral media presentation of the government representatives, an analysis of a sample of its central daily-information programme shall be conducted.

 The results regarding government's representation shall also be included in the overall assessment of balance in the daily-information programmes of each of the broadcasters in particular.

Qualitative aspects of balanced reporting


The data collected about the quantity of reporting dedicated to different political entities do not provide a complete picture of the pluralism manifested by the media. 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 presented. Bearing this in mind, the monitoring of reporting in the daily-information programmes 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*, prepared by the Office for Democratic Institutions and Human Rights (ODIHR), the Human Rights Directorate and the Commission for Democracy through Law (Venice Commission) of the Council of Europe and the European Commission, back in


⁶ For instance: *Media and Elections: A Guide for Electoral Practitioners*, UNDP (2014), available at: http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/media-and-elections--a-guide-for-electoral-practitioners.html, or *Handbook on Media Monitoring for Election Observation Missions*, OSCE/ODIHR (2012), available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0ahUKEwjrygamvtHJAhVEBSwKHe4kAHcQFggIMAE&url=http%3A%2F%2Fwww.osce.org%2Fodihr%2F92057%3Fdownload%3Dtrue&usq=AFQjCNFPY4A75iYSjRTFH8Y3j3SIIBfk8Q&cad=rja>


2009, as well as on the *Guidelines for Election Coverage by Broadcasting Media in Transitional Democracies*, by “Article 19”.⁷


These monitoring elements shall be operationalized as follows:


 Explicit evaluation of the journalist/editorial staff on the relevant entity;

 The tone of reporting, which is measured on a scale of three values (positive, neutral, negative). This assessment is used in cases where the journalist or editor uses explicit words or sentences to express an obviously positive or negative attitude towards a particular political entity.

 The framework (framing) within which the relevant entity is being reported on. The framework represents the value of the journalistic item reporting on the entity, i.e. the context of the reporting. The notion of “framing” is not related to the truthfulness or falsehood of the context, but to the light that this context casts on the entity. Constant reporting on a political entity in a problematic context (for example, events involving violence, initiated procedures for establishing corruption, etc.) during an election campaign may imply an intention to present this entity to the public in a negative context;

 Manipulative use of movies, images and sounds. This refers to the consistent use of a shooting angle whereby the crowd attending the rallies of certain parties or candidates is presented in such a way that it appears larger than it actually is, while the shooting angle used at the rallies of other participants in the campaign makes it seem that there are fewer people attending the event. Other similar examples include: broadcasting movie clips that do not correspond with the event being reported on, with the aim of favoring certain parties or candidates; use of accompanying music or visual effects that give a warning, satirical, patriotic, optimistic or other tone to the item; use of manipulative tone 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 the campaign, the candidates, the government officials and other relevant entities, are also measured as qualitative aspects of balance (the use of direct speech indicates if there are differences in the treatment: for instance, an item involving a direct statement by the Prime Minister versus a quote of the opposition leader);

 Respect for the basic professional journalist standards in reporting.

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

⁷ *Guidelines for Election Broadcasting in Transitional Democracies*, August 1994 (reprinted April 1997), Article 19, available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj8kb2NvNHJAHL1ywKHQUwD2MQFggdMAA&url=https%3A%2F%2Fwww.article19.org%2Fpdfs%2Ftools%2Felectionbroadcastingtrans.pdf&usq=AFQjCNHW7DJcPDwyclqchorJAi1_oL_7tA&cad=rja

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. Continuous false reporting is one of the most serious flaws of media coverage of a campaign that can be established only with the help of a comprehensive qualitative analysis, which involves more complex methodological procedures (e.g. comparing the reporting against the actual events or monitoring the reporting on one and the same event by several media outlets – 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. self-regulation. Hence, although the Agency’s monitoring can help obtain certain qualitative findings about objectivity in reporting, these may not be used as grounds for action, but only as an additional indication when evaluating the qualitative aspect of balanced reporting.

Comments in the daily-information programmes

One journalist piece of news or report should consist of facts and data, while the editorial commentary implies stating of the opinion, ideas and views of the editorial board, the editor or the journalist. 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 especially important to identify the author of the commentary, so that the audience knows whose position it is.

Reporting on public opinion surveys

Reporting on the public opinion surveys related to the parties and candidates’ ratings and the possibility of winning the upcoming elections is a matter of particular importance during an election campaign. 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 Article 77 of the Electoral Code, so that the audience may be able to assess their reliability.

Hate speech

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

As indicated in the *Guidelines for Media Analysis during Election Observation Missions* made in 2005 by the Office for Democratic Institutions and Human Rights (ODIHR), the Directorate of Human Rights and the Commission for Democracy through Law (Venice Commission) of the Council of Europe and the European Commission, “one of the biggest problems during an election campaign is the extent to which ‘hate speech’ should be prohibited”. In this regard, it is advised to impose “minimum limits to individual freedom of expression as the election campaign is precisely the moment when a variety of views, even when expressed in an aggressive manner, should be disseminated”, while, at the same time, it is pointed out that “the specific situation of every

country” should be taken into consideration, as, for instance, “in the post-conflict areas, stricter restrictions may be imposed in order to avoid new tensions among the populations”, while “the concept of hate speech should be related to the potential effect of the message on the audience.”⁸




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

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

In March 2016, the European Commission against Racism and Intolerance (ECRI) issued a General Policy Recommendation No. 15: Combating Hate Speech, in which it gives 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 any harassment, insult, negative stereotyping, stigmatization or threat of 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”, color, language, religion or belief, nationality or national or ethnic origin, as well as descent, age, disability, sex, gender, gender identity and sexual orientation.”¹¹

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 of the Republic of Macedonia, call to military aggression or armed conflict, incite or spread discrimination, intolerance or hatred based on race, sex, religion or nationality. At the same time, it stipulates that, when deciding whether this article has been violated, the Agency should act in accordance with the case law of the European Court of Human Rights.

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

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

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

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwj6heXGltbJAhVHXcWkHYRMBZsQFggdMAA&url=http%3A%2F%2Fwww.gpb.ge%2Fuploads%2Fdocuments%2Fbea833c7-2a31-4eb3-9518-6ed509639532Guidelines%2520on%2520Media%2520Monitoring.pdf&usq=AFQjCNGH2-0aZoeNNqKfN8ISHicFRbqgAw&cad=rja>

⁹ *Guide to Monitor Hate Speech* (2014), Agency for Audio and Audiovisual Media Services, p. 6, available at: http://avmu.mk/images/Guide_to_monitor_hate_speech.pdf

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

¹¹ *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>.

In an attempt to provide directions on where to set the boundaries of “admissible” speech during election 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 OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information, 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.”¹²

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

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

Or, to sum up, “media should refuse all open or furtive expression of intolerance and consider carefully if the publication of such expression is conducive to defamation and ridicule based on sex, race, color, language, faith and religion, affiliation with a national or ethnic minority group, social difference or other kinds of conviction”,¹³ 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 medium informed about it professionally, i.e. placed the statement within an appropriate context and clearly showed that it did not support it.

In this, one has to bear in mind that it is not forbidden to report on the existence of hate speech. Actually, due to the short duration of the election campaign and the fundamental importance of the freedom of political debate as a condition for free and fair elections, it is considered that media may report on the ‘hate speech’ 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 national, racial, gender-based or religious hatred and intolerance. 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.

¹² Joint Statement on the Media and Elections by the UN Special Rapporteur on Freedom of Opinion and Expression (2009), the OSCE Media Freedom Representative, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information, available at: <http://www.osce.org/fom/37188>

¹³ 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=0ahUKEwj6heXGltbJAhVHXcWcKHYRMBZsQFggdMAA&url=http%3A%2F%2Fwww.gpb.ge%2Fuploads%2Fdocuments%2Fbea833c7-2a31-4eb3-9518-6ed509639532Guidelines%2520on%2520Media%2520Monitoring.pdf&usq=AFQjCNGH2-0aZoeNNqKfN8ISHicFRbqqAw&cad=rja>

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 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 gives an opinion 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 faceoff, then the journalist may, as a way of providing additional context, invite the other guests to counter the hate speech expressed by presenting their own positions.

SPECIAL INFORMATION PROGRAMMES

Relevant legal provisions

"27. 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 in the form of interviews, debates or TV/radio duels, current-affairs information programmes, current-affairs information programmes with a documentary approach and thematically-specialized information programmes." (*Electoral Code, Article 2, Paragraph 1, Point 27*)

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

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

"(4) 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.

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

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

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

Balance in these programmes is achieved by observing the principles of Article 75-a, in the same manner as described above in the case of daily-information programmes. During presidential elections, the principle of equality is applied; during parliamentary elections – the principle of proportionality, 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 duels. If the broadcaster duly invites the candidates or the representatives of the entities participating in a campaign to take part in its programme, but the latter do not effectuate their right to access, the medium should clearly stress this fact during the broadcasting of such information programmes. The monitoring shall take note of this and, in such cases, certain imbalance is expected to occur, for which the broadcaster is not held accountable. An exception to this are the cases – also seen in practice – where this situation is used to realize and rerun numerous special information programmes involving only the representatives of one option at the elections, whereby the media 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.

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

The *Code* stipulates that the Public Broadcasting Service is obligated to broadcast debate shows 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 PBS and the commercial broadcasters that shall decide to air interviews, debates and duels, must observe the legal and professional rules.

FORMS OF DIRECT ACCESS TO THE AUDIENCE/VOTERS

Relevant legal provisions

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

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

"26. Paid political advertising shall refer to direct access of the participants in an election campaign to the voters, through which the election programmes, viewpoints and candidates shall be presented for a fee. The forms of paid political advertising shall include advertisements, announcements, political 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.” (*Electoral Code, Article 2, Paragraph 1, Points 24, 25 and 26*)

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

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

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

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

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

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

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

“(2) In distributing the additional advertising time within a clock hour of broadcasted programme, allocated for paid political advertising, when there is interest to merge the slots of one political party in two subsequent clock hours, the media outlet is obligated to provide guarantees that the merging of slots in two subsequent hours shall not be done for one and the same political party twice in a row, but shall guarantee alternating representation of the ruling and opposition political parties, respectively.

“(10) Broadcasters, print media and electronic media (Internet portals) in the Republic of Macedonia are obliged to ensure equal access to paid political advertising to all participants in the electoral process.” (*Electoral Code, Article 75-f, Paragraphs 1, 2 and 10*)

“(1) Paid political advertising must be properly and visibly labelled as “paid political advertising” and clearly separated from other media contents.

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

“(3) Participation of minors in paid political advertising is prohibited.

“(4) Broadcasters must not air paid political advertising during newscasts, special information programmes, education and children’s programmes or during live broadcasts of religious, sports, cultural, entertainment and other events.

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

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

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

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

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

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

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

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

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

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

PAID POLITICAL ADVERTISING

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

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

☞ whether the advertisements and announcements for collecting signatures to support the candidacy of a group of voters are aired only within marked advertising slots during the allowed time for advertising per clock hour of broadcasted programme in the duration of 6 minutes in total;

☞ whether the time allocated for the advertisements and announcements for collecting signatures to support independent candidates is maximum 2 minutes for one participant in the election campaign, and whether the advertiser is clearly identified;

☞ whether the advertisements and announcements for collecting signatures to support independent candidates have the content prescribed, i.e. whether they contain only the basic data, such as who the signatures are collected for, the locations where the citizens can deposit their signatures and at what time of the day, without any additional data about the candidates whatsoever;

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

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

- 📁 whether the broadcasters covering the elections broadcast maximum 9 minutes of additional time for PPA per clock hour of broadcasted programme;
- 📁 whether they allocate maximum 4 minutes per clock hour to the ruling political parties;
- 📁 whether they allocate maximum 4 minutes per clock hour to the opposition parties represented in the Parliament of the Republic of Macedonia;
- 📁 whether they allocate maximum 1 minute per clock hour to the political parties in the Parliament of the Republic of Macedonia that do not have an MP group and to the political parties and independent candidates that are not represented in the Parliament of the Republic of Macedonia;
- 📁 whether, when merging the slots of PPA by one political party, the broadcaster takes care not to air PPA by one and the same political party twice in a row when carrying the PPA over from one clock hour into the next, and whether, in such situations, the broadcaster alternates airing of the PPAs by the ruling and the oppositional political parties, respectively, in the subsequent clock hours;
- 📁 whether PPA is properly and visibly identified as “paid political advertising” and clearly separated from other media contents;
- 📁 whether the advertiser is clearly identified in all the forms of paid political advertising;
- 📁 whether the ban on minors’ participation in paid political advertising is observed;
- 📁 whether the ban on broadcasting PPA during newscasts, special information programmes, education 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 PPA is observed;
- 📁 whether the Public Broadcasting Service observes the ban on broadcasting paid political advertising, and
- 📁 whether the campaigns of the State Election Commission aimed to educate the voters about exercising their right to vote and about fair and democratic elections are separated from the rest of the programme, whether the advertiser is clearly indicated and whether they are not counted as paid political advertising.

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

FREE POLITICAL PRESENTATION

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

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

On the days of the election campaign in the first and the second rounds, i.e. until the beginning of the election silence, the 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 as stipulated in Article 75-a, i.e. the principle of equality in case of presidential and mayoral elections and the principle of proportionality according to the number of verified candidate lists when electing members to the Parliament and to the municipal councils;
- 📁 whether the PBS observes the rule that free political presentation in the television programmes should be broadcast in the period from 16:00 until 23:00 hrs;

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

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

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

ELECTION SILENCE

Relevant legal provisions

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

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

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

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

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

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

Ref. No. 01-658/1
07.02.2019
Skopje

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

Lazo PETRUSHEVSKI