EUROPEAN ENDOWMENT FOR DEMOCRACY

MEDIA DEVELOPMENT CENTER



NEW GOVERNMENT FACES OLD CHALLENGES

2nd Quarterly Report of the monitoring of the work of decision and policy makers, AVMS and the Programming Council of MRT, covering the period from April 1 to June 30, 2024

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INTRODUCTION

The Media Development Centre continuously monitors the situation in the media system and on the media scene in the Republic of North Macedonia. The monitoring focuses primarily on the work and activities of the two bodies with direct competencies for implementation of the media legislation - the regulatory authority, the Agency for Audio and Audiovisual Media Services (AVMS) and the Programming Council of MRT, the public broadcasting service. MDC also follows the activities of the competent Ministry of Information Society and Administration (MISA), especially in light of its role in the reforms (or lack thereof) of the media sector.

The reforms of the media sector in the country, while their necessity has been recognised for many years, are yet to start. The last failed attempt included an EU-led project, focused on the alignment of national legislation with EU's acquis communautaire, but also, in a later stage, on a comprehensive review and reform of the media legislation in the country.

This report, prepared with support of an institutional grant by the European Endowment for Democracy (EED), covers the 2nd quarter of the year, i.e. the period from April 1 to June 30, 2024. The period covered by this report was marked by the Presidential and Parliamentary Elections, i.e. the election campaigns and the period of post-election negotiations and talks for establishment of a new majority in the Parliament and the election of the new Government of the Republic of North Macedonia.

For that reason, there were no movements or new developments in terms of media legislation or the process of media reforms. We should note certain reservations towards the new government, having in mind the manner in which VMRO-DPMNE (the leading party in the news government coalition) approach the media and spared no effort to establish as strong control as possible during its last term in power.

1. DECISION AND POLICY MAKING BODIES

The 2024 Parliamentary Elections brought VMRO-DPMNE back to power with a landslide victory and a convincing majority. The prime minister-designate announced a restructuring of the government cabinet with several new ministries. One of those changes was to divide the existing Ministry of Information Society and Administration (MISA), which held competences in the field of media, into two new ministries - Ministry of Digital Transformation and Ministry of Public Administration. After the reorganisation, the media fell within the scope of competences of the Ministry of Digital Transformation.

The new ministry and the Parliament, as key decision and policy making bodies, face two urgent tasks and challenges. The first is to revive (although it never started in earnest) the process of media reforms in the segments of media legislation, policies and strategies. The last failed attempt to reform the media legislation, which would then result in new adequate policies, led by an EU project, happened last year. Documents and drafts were prepared, but the process was interrupted by the coming elections and the fact that the government chose to give priority to a partial solution on the restoration of the practice of "state" (or government) advertising in broadcast media, instead of opting for a comprehensive solution.

The second challenge is to finally elect and appoint the new compositions of the Council of the Agency for Audio and Audiovisual Media Services (AVMS) and the Programming Council of MRT (the public broadcasting service). Those are the two key bodies that should largely lead, with ideas, analysis and proposals, the process of media reforms, at least in the area of audio and ausiovisual media services and broadcasting, public and commercial, likewise. Still, the process of election and appointment of the new compositions of the two bodies has been delayed for five years now (the first public call was published in February 2019, and the legally prescribed deadlines would have the whole procedure completed by May 2019, at the latest). After the annulment of the public call at the start of 2021, there were indications that a new public call may be open, but that initiative, too, got stuck in the Parliament. In the meantime, there were repeated rumours and initiative to change the legally prescribed threshold requiring qualified, two-third majority vote and to elect and appoint the members of the two bodies with an absolute majority (50% of all MPs plus one).

The first information coming from the new Ministry of Digital Transformation indicate a brand your media regulation and that in its creation, the media, professional associations, the NGO sector and the experts will have the last word.

The new Minister of digital transformation Stefan Andonovski, in the brief period after his appointment to the end of the quarter, at a press-briefing held on June 28, 2024, said that the Ministry had no intention to regulate the media, but rather to provide ideas and directions and to gather all interested parties and stake-holders to identify, in a dialogue, solutions that would "suit all sides and (*shall provide*) minimal standards that electronic media will have to meet".

Also, in an interview of the "360 Stepeni" (360 Degrees)[1] panel programme broadcast by the public service broadcaster MRT, Andonovski added that he hoped that a lasting solutions for the selection and appointment of the members of the Council of AVMS and the Programming Council of MRT shall be found, adding that MRT should be transformed into a proper public service and a focal point, primarily in terms of production of quality programmes and contents, and that the key for the process of finding such a solution would be to secure that it has sufficient resources and independence. MDC recommends to the Ministry of Digital Transformation to start those processes as soon as possible.

We have to note that the media community remains very cautious, having in mind the experiences of the last time VMRO-DPMNE held power (during Nikola Gruevski's tenure as president of the party and the government), and its attempts to establish control over the media one way or another.

Recommendations

The newly established Ministry of Digital Transformation should urgently deal with the issue of selection of new compositions of the Council of AVMS and the Programming Council of MRT. It should review the existing legal provisions on the selection of members of the two bodies and introduce necessary legislative changes. Primarily, it should replace the highly position two-third vote threshold, but changes are also necessary in the requirements for mandatory support/endorsement by different entities and institutions.

In that context, the decision-makers should accept their share of responsibilities for the necessary reforms of the media sector, primarily in terms of changes to the existing legislation – LAAVMS and the Law on the Media.

1. Although it was broadcast on July 8, 2024, after the end of the quarter covered by this report, we believe it had to be mentioned here because of the fact that in it Andonovski responds to questions related to the media sector, policies and legislation. The integral version of the interview is available on the following link

2. COUNCIL OF THE AGENCY FOR AUDIO AND AUDIO-VISUAL MEDIA SERVICES

In the 2nd quarter of 2024, the Agency for Audio and Audiovisual Media Services (AVMS), in addition to its regular activities, was focused on its role and competences in the context of the 2024 Presidential and Parliamentary Elections. During that period, AVMS monitored the media coverage during the pre-election period and the official election campaign, and adopted, as necessary, the changes and amendments to the Guidelines for Broadcasters for Presidential and Parliamentary Elections.

Regarding its regular activities, AVMS continued to deal with the collection (or failure to collect in a timely fashion) of annual fees for the licenses to broadcast programmes and the resulting administrative procedures with the late payments, but also adopted two important by-laws from the group of by-laws that are necessary after last year's changes to the LAAMS resulting from the aligning of the Law with the new Audiovisual Media Services Directive (AMSD).

AVMS and the 2024 Elections

As in every election year, the Agency diligently worked on its share or obligations related to the 2024 Presidential and Parliamentary Elections.

The AVMS adopted the Guidelines for Broadcasters for the Presidential and Parliamentary Elections. The Guidelines offer detailed elaboration on the provisions of the Electoral Code that regulate the paid political advertising (the distribution of the additional 9 minutes and 30 seconds of advertising time per every real hour of broadcasts); the distribution of time in the newscasts aired by the public broadcasting service; the free political presentation on the Parliamentary Channel; but also the provisions on accessibility of contents on the election processes and procedures and the conduct of broadcasters during the campaign silence period.

The Agency also conducted the necessary changes and amendments to the Guidelines, in accordance to the changing situation on the ground, i.e. to indicated the proper distribution of the allowed time for paid political advertising and the coverage in the newscasts of the public broadcasting service after the first round of Presidential Elections, and how to distribute the advertising time among the political parties that

are represented in the Parliament but don't have enough MPs to form a Parliamentary Group, and the parties that are not represented in the Parliament. The respective changes to the Guidelines were adopted by the AVMS Council in its 16th session[2] (held on April 15, 2024) and in its 19th session[3] (held on April 25, 2024).

The Agency conducted a regular monitoring of the campaign media presentation for the 2024 Presidential and Parliamentary Elections, and the aired paid political advertising. The monitoring reports (available on the website of AVMS) are excellent documents, offer detailed information and are welcome in a situation in which the media industry lacks quality organized data and information on different aspects of its functioning.

The monitoring resulted in AVMS launching misdemeanour procedures against two broadcasters, for violations of several provisions of the Electoral Code regarding the electoral media presentation.

By-Laws

In the second quarter of 2024, AVMS continued to work on the drafting and adoption of new by-laws and on changes and amendments to the existing by-laws resulting from the changes of the Law on Audio and Audiovisual Media Services to align it with the new Audiovisual Media Services Directive (AMSD).

In its 26th session held on June 12, 2024[4], the Council adopted the Rulebook on Accessibility of Media Services and the Guidelines on changes and amendments to the Guidelines on implementation of provisions on product placement, and launched the process of public consultations with the stakeholders. Both are excellent documents that provide detailed elaboration of the respective legal provisions. Both by-laws went through the adequate public consultations procedure, and all stakeholders hat 90 days to give their comments, suggestions and proposals on the two drafts.

It should be noted that not comments or proposals were received for neither of the two drafts. It may be due to the quality of the documents (prepared with the help of international experts) and their provisions, but perhaps AVMS can do more to animate the stake-holders, for example, through organisation of an event in which it will present such drafts of by-laws and invite them more directly to give their comments or proposals.

2. See the minutes on the following link
3. See the minutes on the following link
4. See the minutes on the following link

In this quarter, AVMS also prepared the Draft-Rulebook on changes and amendments to the Rulebook on broadcasts of European audiovisual works and works by independent producers, again, to align the existing Rulebook with the legal changes adopted in 2023.

Reports, Analyses

In June 2024, the Agency published the Analysis of the market of audio and audio-visual media services[5]. The Analysis covers the economic aspects of the work of the public broadcasting service and the commercial broadcasters. The analyses of the market prepared by AVMS are the only documents of their type in the country, offering systemized data on the size and capacities of the broadcasting market.

AVMs also published the "Media Ownership in 2024" Report[6], which offers complete and clear overview of legal entities and physical persons that own the broadcasting media - radio and television stations - in the Republic of North Macedonia.

On the other hand, the Agency seems to have ended the practice of publication of regular quarterly reports on the ratings of TV stations and the reach of radio stations in the country. The last publish report on broadcasting audiences covers the period April-June 2023. AVMS should restore the practice to publish such reports, in view of the fact that they offered data and information on an important segment of the functioning of the media scene, especially in terms of planning and design, as well as implementation, of policies for development of broadcasting in the country.

Public Meetings

The Agency for Audio and Audio-visual Media Services held its 2nd Public Meeting for the year on June 27, 2024[7]. The Public Meeting was dedicated to the topic of media literacy, and a regular report on Agency's activities since the start of the year was presented. The Agency presented the report from the Survey of media literacy among First and Second Year Sstudents in secondary education[8], which it commission from the polling agency "Rating".

5. The Report is available on the following link
6. The document is available on the following link
7. The report from the 2nd Public Meetings is available on the following link
8. The Report from the survey is availableon the following link

Recommendations

Having in mind the weak response of the stake-holders in terms of commenting or giving opinions and suggestions on the proposed draft by-laws, the Agency should intensify the efforts to promote such documents. The simplest approach would be to organize meetings with the stake-holders in which it would present the respective by-laws or other documents and invite them to give their comments and recommendations.

In view of the value of the quarterly reports on the reach of radio stations and the share of viewership for the TV stations as sources of systemized date and information on important aspects of functioning of audiovisual media services market, it would be prudent for the Agency to restore the practice of publishing such quarterly reports.

3. THE PROGRAMMING COUNCIL OF MRT

The reports on the work of the Programming Council routinely start with the remark that the term of the current composition of the Council has expired years ago (as is the term of the members of the AVMS Council) and that the Programming Council currently has a "care-taker" role.

It is not certain when the selection and appointment of the new composition could take place (according to the changes of LAAMS of December 31, 2018, the whole process should have been completed by the end of April 2019, at the latest), especially if we keep the existing requirement for two-third majority vote in the Parliament for their appointment.

In absence of a two-third majority (the current composition of the Parliament, after the 2024 Parliamentary Elections, is an exception and the government and the opposition's strength is much more balanced, usually), the qualified, two-third majority vote for the members of the Programming Council (and the AVMS Council) is not practical and, importantly, not practicable. Although it seems that the new majority, led by VMRO-DPMNE, could secure the necessary votes, it doesn't guarantee absence of political influence and horse-trading and transformation of the appointment of the council into a contest to secure influence over the public broadcasting service.

Therefore, MDC remains at its original position (established back in the days when the issue was first raised before the changes of the LAAMA of December 2018), that the selection should require an absolute majority vote, 50% plus one of the total number of MPs.

MDC also maintains the position that the Programming Council should be a larger, more representative body (representing diverse groups in society), similar to the existing bodies in the federal states in Germany.

Another routine remark and finding is that the Programming Council continues, against the clear instructions that it's sessions are public of Article 122 of LAAMS, to hold its sessions without prior announcement and keeps them closed to the public. In such a situation, even if we thought that the provisions of the its Rules of Procedure that require from the representatives of the public (journalists, CSOs, interested citizens, etc.) that want to be present in its sessions to announce their interest in advance, are acceptable (which they are not!) - those who would want to adhere to those provisions can't do it, because there are no advance announcements of the sessions or the agenda of each individual session ahead of time.

The Programming Council ought to use the possibilities offered by the new digital technologies, not only for adequate announcement of its sessions on MRT's website, but also in terms of providing live-stream of its sessions. The Programming Council should also get a dedicated session on MRT's website, where it would announce the sessions (together with the respective agendas), the recorded minutes in the sessions and, should a streaming service be secured, recordings of the sessions.

MRT and the 2024 Elections

The public broadcasting service has a special place and plays a special role in the provision of electoral presentation of candidates and parties that run in the Presidential and Parliamentary Elections. Those include special obligations regarding the distribution of time in the news and information programmes (Article 76a, paragraph 2 of the Electoral Code), and the obligations to provide adequate free political presentation on the Parliamentary Channel and on MRT1 and MRT2 programming services.

MRT adopted the Rules on Media Coverage of the 2024 Presidential and Parliamentary Elections[9], for each of its programming services. The Rules provided elaboration of MRT's obligations, with detailed information in which the public broadcasting service shall cover the election campaigns.

The AVMS's report on the campaign media presentation on MRT indicates existence of certain problems with the existing legislation, from the point of view of MRT's obligations related to the structure of its newscasts (30% of the time for national and international news and current affairs; 30% for the activities of the parties in the incumbent government; 30% for the opposition parties; and the remaining 10% for the parties not represented in the Parliament).

First, such a system of distribution of time in the newscasts is, in its essence, unfair (something that CSOs have been repeating for a long time) because it seriously undermines the prospects of political parties not represented in the Parliament, and especially the new political entities that may have been established in the period between two elections. The existing legislation favours the already established parties and, for all practical purposes, prevents the emergence or any significant break-through of newly formed political parties or movements.

Second, and it is well noted by AVMS's report, in a situation of unequal number of entities in government and in opposition, the formal balanced reporting is essentially unbalanced. For example, during the campaign for the second round of Presidential Elections, which coincided with the campaign for the Parliamentary Elections, the

9. Although the Rules were adopted on time, in February 2024, due to the already mentioned low navigability of MRT's website and the lack of adequate promotion of the Rules, it is almost impossible to notice them unless you do a very specific search.

30% of the news dedicated to the government had to cover one presidential candidate and two coalitions led by parties from the incumbent coalition, while the 30% for the opposition covered one presidential candidates and four political entities (parties and coalitions) that were in opposition prior to the elections.

Third, the Electoral Code offers no instructions or guidelines how to achieve the purported balanced coverage and media presentation if the organizers choose a different methods of campaigning or refuse to take part or appear in some of the specialized programming contents intended especially for electoral presentation. Such was the example with the refusal of candidate Stevo Pendarovski (the incumbent President of the Republic) to participate in a televised debate, but also his refusal of the invitation of campaign interview. Both refusals ultimately resulted in unbalanced coverage, and MRT was not responsible for it.

The Programming Council dedicated two sessions to AVMS's reports (the 251st session[10] and the 252nd session[11]). In its 252nd session, the Programming Council reviewed the Information on the impact of the Electoral Code and other regulations on the obligations, standards and principles of operations of PE MRT. The Information was presented, in the opening remarks, by the Council member Riste Panov. Panov concluded that the existing provisions of the Electoral Code that regulate the distribution of time in the newscasts during election campaigns results in an essential misbalance of the coverage and notes the Agency's conclusion that the provisions offer multiple restrictions of journalistic freedoms and that the provisions are in collision with Articles 110 and 111 of the LAAVMS (the principles and standards of work of MRT, respectively).

The Council, therefore, pointed out that changes are necessary to delete the disputed paragraph 2 of article 76a of the Electoral Code, accompanied with deletion of shortening of the deadlines listed in paragraph 12 of that Article (to replace "the day of calling of the Elections" into "the start of the election campaign period"). The Programming Council believes that the proposed changes would allow MRT to regulate the balanse and equal representation of political entities involved in the process through self-regulation (in accordance with standards and principles listed in article 110 and 111 of the LAAMS). By the time of writing of this report, there is no information if the conclusions of the Programming Council have been presented as an official proposal to the competent decision-making bodies.

10. See the minutes on the following link
11. See the minutes on the following link

Accusations of Bias

During the period covered by this report, before and during the election campaign, MRT faced to rather unpleasant accusations of bias in its coverage of election campaign.

Before the election campaign, the public broadcasting service was target of accusations of peddling fixed and fabricated public opinion polls with the aim to influence the public and the voters in favour of the opposition party VMRO-DPMNE. Furkan Saliu, journalist of the "Portalix" news site, published information that the opposition party, in an "operational plan for dissemination of fake news", planned the creation of a television programme, to be broadcast twice a week on MRT, to analyse findings of public opinion polls prepared by the Institute of Political Research IPIS[12], with pre-defined composition of analysts in which the opposition would dominate. The immediate cause for the accusations wat the "Objektiv" programme, which offered analyses of the findings of opinion polls conducted before the elections.

The other parties mentioned in the accusations, IPIS and VMRO-DPMNE denied all allegations and announced adequate legal action against those who distributed such accusations[13]. The Editorial Board of the MRT issued a public statement in which it said that "the public service designs and conceives its programming contents in line with the rules that operationalize the obligations the public service has under the LAAMS, the Law on the Media and the Code of Ethics". Additionally, the Editorial Board pointed out that the "Objektiv" programme presents public opinion polls on current political and economic issues, as well as polls on the ratings of political parties. The Board also noted that the polling activities "include two prominent agencies (a fact that the attacks on us fail to mention[14]) owned by Petar Arsovski and Vladimir Bozinovski". The Board reiterated the position that MRT is always led by the fundamental professional standards and ethical principles and dismissed all attacks regarding the professionalism or objectivity of its reporting and coverage as unfounded.

After the series of accusations and counteraccusations, the "Objektiv" programme continued to present findings of public opinion polls, but using and expanded pool of analysts, in response to the initial accusation that the balance was heavily tilted in favour of the opposition.

12. The Institute for Political Research is perceived in public as being close to VMRO-DPMNE.
13. By the time of writing of this report, there are no information if VMRO-DPMEN and IPIS sought judicial action to protect their reputations.
14. Petar Arsovski immediately denied the claim that his agency "Creative" was involved in the polls, explaining that his engagement was solely as analyst of the data and findings of the polls conducted by IPIS. See on the following link

The second controversy emerged after the incumbent President Stevo Pendarovski didn't appear in the televized debate organized by MRT on May 2, 2024, and publicly voiced accusations that his opponent, candidate Gordana Siljanovska-Davkova made her own debate arrangements to she can "debate herself and, as they said, an empty chair on the other side". Pendarovski said that there was no agreement on a debate, in terms of date and time, and MRT responded that it offered the candidates a list of three possible dates, and waited for confirmation from Pendarovski's team until the last possible moment.

MRT added that, instead of the planned debate (which was turned into an interview with Siljanovska-Davkova) they offered to air individual interviews with both candidates, and offer that was also turned down by Pendarovski's team.

The issue of organisation of televised candidate debates constantly produces such and similar situations - invitations are extended, they get accepted or refused, there are empty chairs in TV studios – and it is not an integral part of the "political folklore" in North Macedonia. While it is not, strictly speaking, a subject of this monitoring, we would propose a review of the manner in which we approach election debates (televised) and its alignment with the international practices. Namely, the televised candidates' debates are not organized by the broadcasters. Bi-partisan, or supra-partisan bodies are established with representatives of all entities and candidates running in the elections, and that body reaches an agreement if there will be debates, how many of them, what will be the topics of discussion and, ultimately, which TV stations shall be offered to broadcast the debates. That is the practice in the U.S., the country of origin of the televised candidates' debates.

Reports and By-laws

In the second quarter of 2024, the Programming Council adopted the Report on Financial Operations of PE MRT for the period January 1 - March 31, 2024 (First quarter)[15].

Also on the matter of MRT's financial operations (and in another session[16]), the Programming Council adopted the conclusion proposed by the member Ilir Ramadani, requesting from the Director General of MRT to present information on the actual financial situation in the Public enterprise, i.e., whether the Ministry of Finance transfers all the funds to MRT prescribed by the LAAMS, but also on the status of MRT's liabilities and whether it covers its liabilities on grounds of contracts for acquisition of programmes in a timely manner.

15. See in the Minutes of 249th Session, available on the following link
16. See in the Munutes of 253rd Session, available on the following link

The issue of failure to pay the full amounts from the state Budget ear-marked for financing of MRT (and the Agency for Audio and Audiovisual Media Services and the PE "Makedonska Radiodifuzija") remains unresolved. In addition to being inadequate and insufficient to finance the public broadcasting service and all of its programming services, they were never fully paid, which certainly has a negative effect on MRT's ability to perform all functions of its public remit – to inform, educate and entertain.

In its 253rd session, the Programming Council reviewed and adopted the Pricelist of Technical Services of the Macedonian Television[17].

Recommendations

The Programming Council of MRT should (and we repeat this constantly) make efforts to make its work more open to the public, in accordance with its legal obligations. The Programming Council ought to use the possibilities offered by the new digital technologies and its existing capacities to provide timely information to the public about the scheduled sessions and their respective agendas, so the interested citizens and the stakeholders could be present in the sessions and follow its work. In that regard, we recommend a reorganisation of MRT's website, with addition of a special section dedicated to the Programming Council and its work, to announce the scheduled sessions (complete with an agenda) and minutes recorded in the sessions, as well as the documents, decisions and conclusions it adopted. Also, the Programming Council should provide live-streams of its sessions, over the internet, using some of the available video-sharing platforms.

The Council should also take care that its initiatives, such as the initiative for changes to the Electoral Code and its provisions that cover the MRT's coverage of election campaigns, would pass through the appropriate channels and would reach the institutions with competences to implement such changes (government ministries or the Parliament).

17. The Pricelist is available on the following link

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