EUROPEAN ENDOWMENT FOR DEMOCRACY

MEDIA DEVELOPMENT CENTER



LEGAL CHANGES "ON DEMAND" REMAIN THE MAIN APPROACH TO MEDIA REFORMS

FOURTH QUARTERLY REPORT OF THE MONITORING OF THE WORK OF DECISION AND POLICY MAKERS, AVMS AND THE PROGRAMMING COUNCIL OF MRT, COVERING THE PERIOD FROM OCTOBER 1 TO DECEMBER 31, 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 Digital Transformation, 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 fourth quarter of the year, i.e. the period from October 1 to December 31, 2024. The monitoring noted certain new developments, especially in terms of the long stalled process of appointment of the new compositions of the Council of AVMS (but not the Programming Council of MRT), prescribed with the changes to the LAAMS of December 31, 2018. Also, the process of changes to the Law on the Media to integrate the online media in the regulatory framework has resulted in some concrete activities, i.e. the publication of the draft-changes on the ENER System to collect proposals and suggestions from the stakeholders and other interested parties.

The Council of AVMS and the Programming Council of MRT continued with their regular activities.

This report, while covering the 4th Quarter of 2024, offers a brief overview with conclusions on the whole year during which the monitoring was implemented. We also asked our colleagues from the Institute for Media and Analytics to provide a brief article presenting their views and opinions on an adequate solution for the issue of "state advertising" or promotion of public interest campaigns in the media. Their brief analysis is attached as an annex to this report.

1. DECISION AND POLICY MAKING BODIES

The 4th Quarter of 2024 was marked by two important developments related to the media sector and the necessary reforms thereof, initiated by the decision and policy making bodies.

Appointment of Members of the Council of AVMS

On October 2, 2024, the Assembly of the Republic of North Macedonia adopted the Decision to publish a public competition for appointment of members of the Council of the Agency for Audio and Audiovisual Media Services[1]. It has to be noted that, for some reason, the Assembly decided that the members of the Programming Council shall not be appointed at the same time with the Council of AVMS.

That decision came more than three and a half years after the second failed public competition for appointment of new members of the Council, and nearly six years after the adoption of the changes and amendments to the LAAMS (December 31, 2018) that prescribed an early termination of the mandate of the Council of AVMS (and the Programming Council of MRT), appointed way back in 2014.

The process of selection of candidates was a cause for public uproar. That is especially the case with the public hearing in front of the Commission on Matters of Elections and Appointments, prescribed by Article 14, paragraph 5 of the LAAMS, that was supposed to follow the template established in the appointment of the State Commission for Prevention of Corruption (an independent commission for selection of candidates, public hearing in which the candidates would answer questions of the MPs and the present representatives of the civil society). Instead, the parliamentary Commission invited only representatives of the organisations that provided endorsement letters to the candidates, to give their reasons for the endorsement.

There were also objections about the profiles and qualifications of several candidates, including persons who were members of leadership structures of political parties or holders of elected or appointed offices in the past 10 years (in collision with provisions of Article 16, paragraph 3 of the LAAMS). In addition, at the time of writing of this report, it is increasingly clear that the worst fears that the two-third majority necessary

1. See the website of the Official Journal of RSM, Off. Journal no 207/2024, available on URL

for the confirmation vote of the members of the Council, as a threshold set too high and difficult to secure, would lead to open political horse-trading in the Parliament, with political parties vying to secure their influence in the regulatory body. Another cause for concern (looking back from the time that passed before the writing of this report) is the very real possibility that this attempt to appoint the members of the Council could also fail, due to the inability to secure the "Badentaire majority" if the demands of the biggest opposition party from the ranks of non-majority communities are not met.

Changes to the Law on the Media to Integrate Online Media in the Regulatory Framework

The second new development regards the work of the Ministry of Digital Transformation. While MDT remained focused primarily on matters related to digital transformation, on October 8, 2024, a draft-Law on changes and amendments to the Law on the Media was published on the Unique National Electronic Register of Regulations (ENER)[2] to collect proposals and suggestions from the stakeholders and other interested parties. That marked the official start of the procedure to change the Law on the Media to integrate the internet-native media in the national regulatory and legislative framework. The proposed changes are result primarily of the initiative of the "Online-Medium.mk" association that gathers the leading news sites and online newspapers. (At the time of writing of this report the Draft-Law was expected to be submitted for the confirmation vote in a plenary session of the Assembly).

For the whole time since the adoption of the Law on the Media in December 2013, MDC has stood on the position that the existing definition of media in the Law covers the online media and that their position in the regulation, in a manner that will not exceed the regulation of the print media, is allowed and necessary. There are several objections to the proposed draft: Will there be some difference and distinction between those that will opt for voluntary registration and those that will opt to stay out of the official Registry be treated differently? Could that distinction lead to different treatment by the institutions of the state and public institutions? Why is there a requirement of a certain number of full-time employees to enter the registry, if there is no similar requirement for the print media? How will matters related to the right to reply and correction be resolved? We hope that the Assembly, before the vote on the bill, will organize proper public discussion of the proposed bill so such open questions can be addressed and adequately corrected.

2. See on ENER

State Advertising

The changes to the LAAMS that abolished the provisions of former Article 102 and introduced an obligation for national government and the local self-governments to dedicate budget funds to purchase advertising time in broadcasting, were adopted in February 2024. The changes to the LAAMS prescribe (in Article 15, Transition and Final Provisions of the Law on Changes and Amendments to the LAAMS) that, within 60 days from the day of adoption of the Law, the Commission on selection of state campaigns on state (national) level shall be established, to cover the period of time until the establishment of the new commission after the 2024 Parliamentary Elections. However, neither that interim commission, due to the Parliamentary Elections, nor the regular commission, in line with provisions of Article 101-b of LAAMS, were established by the end of 2024.

RECOMMENDATIONS

The recommendation remains to take a more serious approach to the process of media reforms, primarily through review of media legislation. Thanks to the EU project implemented in 2023, there are ready to use, complete drafts of the relevant legislation. MDT should start the process of public consultations and adoption of a completely new legislation, instead of making small interventions in the legislation, primarily as a result of the pressure and lobbying of special interest groups within the media community.

MDT and the Assembly should act on their obligations arising from the changes to the LAAMS of February 28, 2024, to reintroduce the state campaigns (state advertising) and establish the Commission on Selection of State Campaigns. Although MDC is opposed to that particular legal solution and believe that this chapter of the Law should be thoroughly revised[3], now that it has been adopted, the Law needs to be implemented observing all the prescribed deadlines.

3. See the "First Quarterly Report 2024: Instead of Systemic, We Get Bad, Partial Solutions", available on URL

2. AGENCY FOR AUDIO AND AUDIO-VISUAL MEDIA SERVICES

The Agency for Audio and Audio-visual Media Services continued to implement the regular activities from its scope of competences in the 4th Quarter of the year. In that period, the Council of AVMS convened in 11 sessions. In its sessions, the Council primarily dealt with matters related to sanctioning broadcasters or operators of public electronic communication networks for various violations of the LAAMS.

In this period, the Council also adopted the annual plans for programming and administrative supervision, as well as the 2025 Annual Working Programme with the Annual Financial Plan (46th Session of the Council[4]). It should be noted, too, that the Council authorized the Director of the Agency to sign the Collective Bargaining Agreement with the Agency's employees (in its 41st Session[5]).

In addition to the regular sessions, the Council held two public sessions, intended for meetings with broadcasters in which the latter should provide an explanation of the processes and situations that have led to their ceasing to broadcast and subsequent deletion from the Registry of Broadcasters (Radio B-97 from Bitola and Radio RRAPI from Struga), or related to the procedure for revocation of licence to broadcast programmes (TV VIS from Strumica). Again, none of the invited representatives of the broadcasting organisations appeared in front of the Council to present such an explanation.

By-Laws

In the 4th Quarter of 2024, AVMS continued to work on the adoption of new bylaws and changes and amendments to existing bylaws in the process of alignment with the changes to the LAAMS of July 2023.

In its 38th session, held on October 9, 2024, the Council of AVMS adopted the Rulebook on Protection of Minors[6] and the draft-Guide to monitor hate-speech (second amended and updated edition)[7]. As in previous cases, the Agency has not received any comments, suggestions or proposals to change or amend the drafts of the two bylaws.

4. See the Minutes of the 46th Session of the Council of AVMS, December 12, 2024, available on URL
5. See the Minutes of 41st Session of the Council of AVMS, October 29, 2024, available on URL
6. See "Rulebook on Protection of Minors (consolidated text)", available on URL
7. See "Guide to Monitor Hate-Speech – second amended and updated version", available on URL

In its 39th session of October 17, 2024, the Council adopted the Rulebook on changes and amendments to the Rulebook on Sponsorship[8], to integrate the changes to the LAAMS of July 2023. It should be noted that one proposal was submitted (and subsequently accepted) in the public consultations process on the draft-Rulebook, which is a truly rare occurence.

The Council also adopted several by-laws that regulate internal operations of the Agency (the Rulebook on Salaries and Compensations, the Rulebook on Annual Leave for the Employees of the Professional Service), arising from the adopted and signed Collective Bargaining Agreement.

The general impression is that the Agency adopts quality bylaws. Most of the bylaws adopted in 2024 were prepared with assistance from international experts, which is and additional guarantee of their quality. There is, however, the matter of the evident lack of interest among the stakeholders to take part in the public consultations and debate on the proposed drafts with their comments and proposals. We repeat that AVMS should enhance the efforts to promote the drafts of the documents it produces and adopts and animate the stakeholders to take part in the public consultations processes.

Public Meeting of AVMS

AVMS held its 4th Public Meeting[9] for the year on December 25, 2024. It was the first in a long series of public meetings in which only a presentation of the activities of the Agency for the previous quarter was given, without presentation of any special topical report, analysis or research (topics range from market analysis, gender equality issues, treatment of minors, etc.) which were a regular part of all past public meetings. We do hope that the 4th Public Meeting for 2024 is an exception to that practice, having in mind that AVMS usually produces quality reports and analysis which are of great importance as sources of data and information to those interested in various aspects of audiovisual media industry.

Other Activities

As the central member of the national Media Literacy Network, in the last quarter of the year AVMS organized the traditional “Media Literacy Days” (the event is held annually since 2019). This year’s edition[10] was held from October 28 to November 4, 2024, and launched with a major international conference “Media Literacy Policies in the Age of Artificial Intelligence”.

8. See “Rulebook on Sponsorship (consolidated text)“, available on URL
9. See on URL
10. For more information, see on URL

3. THE PROGRAMMING COUNCIL OF MRT

The Programming Council of MRT completed yet another quarter as acting-body, with long expired mandate. Although the Assembly started the process of appointment of new members of the Council of AVMS, the new composition of the Programming Council, according to the competent parliamentary Commission, was left for the first quarter of 2025[11]. It should be noted that, if the appointment of the Programming Council, due to the identical requirements for two-thirds majority and "Badintaire majority" for the confirmation vote, follows the pattern established by the procedure to appoint the new members of the Council of AVMS (at this moment still uncertain, because of the inability to secure the Badintaire majority), we may get a situation in which the public broadcasting service will be steered by a body that, instead of representing the interests of the public (in all of its diversity) would primarily represent the political parties represented in the Parliament.

As far as the current composition of the Programming Council is concerned, there is the unresolved matter of the evident conflict of interest with several members. Also, several members left the Programming Council because of new engagements that result in incompatibility with their membership of the Council, and one member passed away during her term in office.

There is also the matter of insufficient care for the publicity of the work of the Programming Council. This doesn't refer only to the possibility for stakeholders to be present and follow the sessions of the Programming Council (according to Article 122, paragraph 1 of the LAAMS, the PS works in public sessions). The sessions are not adequately announced on the various platforms available to MRT (its TV and radio programming services, the website, etc.). That makes it difficult to implement 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, which is inacceptable anyway, having in mind the obligations that arise from Article 122 of the LAAMS.

In addition, the Programming Council lacks a system of regular communication with the public (in all of its diversity), the interests of which it is purported to represent in the public broadcasting service, in order to gather the views, proposals, suggestions and needs of different groups in society.

11. In fact, at the time of finalization of this Report, the Commission on Matters of Elections and Appointments has published the open competition for selection of members of the Programming Council of MRT.

Sessions

BIn the last quarter of 2024, the Programming Council held nine sessions, which is considerably more than the average of five sessions per quarter that it usually holds. That was to be expected at the end of the year, when it has to adopt the annual plans and programmes for the next year. In addition, the Programming Council gave its approval for the change on the position Editor of the First Programming Service (Aneta Andonova moved to the position Managing Editor of the Parliamentary Programming Service, and she was replaced by Dragan Nikolovski), on basis of a Request to appoint Managing Editors submitted by the Director of MRT.

In its 261st session[12], the Programming Council adopted the Annual Working Programme with the with the Annual Financial Plan. It is evident from Minutes and also in the Annual Programme itself, that the Programming Council is promoting greater reliance on internal resources for production of programmes and move away from the reliance on external independent producers and co-production projects. As noted by PS's Gajur Ramadani, "Some programmes made as co-productions, especially in MTV1 (the flagship channel of the public broadcasting service), can be easily produced by quality journalists on MRT's payroll and can use the internal human resources". Such interventions regarding the existing policies and the need to adopt new policies in the effort to feel the programming schedule with quality contents are more than welcome and they are in the very core of Council's tasks and responsibilities.

RECOMMENDATIONS

The recommendations are repeated from the past quarterly reports:

- Implement measures to ensure that its sessions are adequately and timely announced in advance, to allow to the stakeholders and other interested parties to be present and observe the sessions;
- The Programming Council should adopt the practice of the Agency for Audio and Audiovisual Media Services and hold periodical Public Meetings that will be open to the public to ask questions or give proposals to the Council;
- In general, the Programming Council should establish adequate systems for regular communication with the public (in all of its diversity), the interests of which it is purported to represent in the public broadcasting service.

12. The Minutes are available on URL

4. RESUME OF THE YEAR

DECISION AND POLICY MAKING BODIES

For policy and decision makers, 2024 was a year of two parts. The first half of the year was dedicated to the Presidential and Parliamentary Elections, while in the second year, the focus was on the consolidation of the new ruling majority. The general impression is that we can't be satisfied with the work of the policy and decision makers regarding the media sector, for the whole of 2024.

First of all, the decision makers don't approach the necessary reforms of the media legislation in a holistic manner, in accordance with the identified needs (and existing drafts and proposals produced under the auspices of a major EU project) for detailed review of the relevant legislation, the LAAMS and the Law on the Media. Instead, they have chosen the method of legislative changes "on demand" (as our colleague Snezana Trpevska noted succinctly in a public discussion dedicated to media reforms), mostly on initiative of special interest groups within the media industry, primarily concerned to protect their particular interests.

For instance, right before the Elections, a number of changes to the LAAMS were adopted, including the termination of the ban on state advertising in audiovisual media prescribed by the former Article 102 of the Law. As a result of the pressure of the national terrestrial TV broadcasters, several other important changes were adopted - regarding the extension of permits to broadcast programmes, in the area of copyrights and associated rights, that we covered in detail in the First Quarterly Report for 2024[13].

The second expected change to the media legislation, also on initiative of the association of internet-native media and online newspapers "OnlineMedium.mk", to integrate the online media in the existing regulatory framework, is still in procedure, primarily due to the fact that the competent Ministry of Digital Transformation was focused on its separation from the former Ministry of Information Society and Administration.

The Parliament, several years later than planned, finally started the repeat procedure for appointment of the new composition of the Council of AVMS (the procedure has not been concluded by the time of writing of this report), an obligation arising from the changes to the LAAMS of December 2018. The conduct of the procedure, especially the public hearing in front of the competent Commission on Matters of Elections and Appointments, caused consternation among the stakeholders in the media sector and the expert community. It is interesting that the process of appointment of the new members of the Programming Council of MRT was left for the first quar-

13. See in «First Quarterly Report 2024: Instead of Systemic, We Get Bad Partial Solutions", available on URL

ter of 2025 and was not conducted parallel to the procedure for appointment of the Council of AVMS. As a result, the current members of the two bodies, appointed back in the summer of 2014, have remained in office as acting-members for several years, although their regular terms expired long time ago (not to mention that their terms in office were actually terminated by the 2018 changes to LAAMS.

The decision makers need to make effort to implement their competences to ensure detailed and thorough review of the media legislation.

It should be noted that the problems with the Budget financing that replaced the former broadcasting fee were eliminated and that the entities that are funded from that budget line now receive the full funding prescribed by the Law. On the other hand, as far as the public broadcasting service is concerned, the solution (instead of calculating the percentage of the budget allocated under that line on basis of total income for the previous fiscal year, it is now calculated as a percentage of the total tax revenues in the last adopted annual balance sheet of the Budget) satisfies two of the three widely accepted criteria for financing of public broadcasting services - it is stable and predictable - but fails to meet the third criteria, to be adequate and sufficient to allow for full realisation of the functions and the mission of the public broadcasting service.

AGENCY FOR AUDIO AND AUDIO-VISUAL MEDIA SERVICES

We have to agree with the findings of the international reports, including the 2024 Report on the Republic of North Macedonia issued by EU, that AVMS performed its tasks and obligations in a responsible and competent manner. That is due, primarily, to the agility and the expertise of Agency's Professional Service[14].

That was the case in the work that the Agency did during the 2024 Presidential and Parliamentary Elections, but also regarding its activities on a number of issues that fall within its scope of competences - media literacy, gender equality in the media sector, fight against disinformation and hate-speech, etc. We especially note the fact that the Agency finally took the responsibility for the preparation of the feasibility study to determine the justification for opening a public competition for allocation of a permit for terrestrial television broadcasting instead of outsourcing it to a contractor. MDC has long held the position that such studies should be done in-house, by the Agency staff, and it is great that it finally happened (although, ultimately, it took a court decision ordering it for it to happen).

14. Several employees from AVMS's professional service did apply in the public competition for selection of members of the Council of AVMS. In retrospect, knowing the names that made it on the short list prepared by the Commission on Elections and Appointments, and knowing the expertise and experience of the candidates coming from Agency's professional service, it would have been probably the best if they were all selected and presented for confirmation vote to the Parliament. That would have ensured high levels of expertise of the Council, instead of the obvious politization of the body resulting from political wheeling-dealing necessary to secure the needed two-third majority for the confirmation vote.

AVMS also continues with production of quality reports and analyses of different aspects of functioning of the audiovisual media services market and industry, providing valuable data and information to all interested parties (researchers, the civil sector, the academia, etc.).

On the other hand, while AVMS continues to draft and adopt quality by-laws (several new by-laws as well as changes and amendments to existing by-laws were adopted in 2024 as a result from the need to align them with the changes of the Law on Audio and Audiovisual Media Services of July 2023 which aligned the Law with the new Audiovisual Media Services Directive (AMSD)), it is evident that the stakeholders from the media community, the civil sector and other interested parties extremely rarely use the opportunity to provide comments and proposals on the draft-documents in public consultations procedures. AVMS should certainly enhance the efforts to promote and animate the stakeholders to take part in the public consultations to ensure that the adopted documents and bylaws will be of highest quality.

The Council of AVMS also performs its duties and obligations regularly and conscientiously. One long-standing objection is that the Council (and the Agency in general) seems to do very little regarding policies in the audiovisual media services industry that is their core obligation - to ensure fair and purposeful distribution of available broadcasting resources, primarily in terrestrial broadcasting (the digital terrestrial multiplexes), in a manner that will protect the public interest and the different interests of the public/audiences. That is, after all, the main reason for the existence of the regulatory body. For example, apart from expressing their lamentations in increasingly frequent cases of broadcasters, especially those broadcasting on regional or local level, folding operations and ceasing broadcasts, we can't really remember an instance of the Council discussing what the Agency, as a regulatory body, can and should do to overcome the long-standing problem of unsustainability of the existing broadcasting eco-system. Or to propose and implement adequate new policies or change existing policies to increase sustainability of the system in a way that will ensure that the public shall have access to quality audiovisual contents of all types and in all formats. It is a fact that such a new role and approach will require an intervention in the existing legislation, knowing that it does "tie Agency's hands" to take proper action in that area. On the other hand, as in many other areas within its scope of competences (media literacy, fight against disinformation and hate-speech, etc.), nothing prevent the Council to discuss and propose solutions, both in terms of action that it can take on its own and in terms of future legislative interventions.

THE PROGRAMMING COUNCIL OF MRT

In 2024, the Programming Council of MRT continued to function as "acting Council", several years after the actual expiration of the term for which its members were appointed.

The main remarks still concern the transparency and the participation of the public in its work. Namely, the Programming Service should invest greater effort to timely and adequately inform the public and the stakeholders about the scheduled sessions (with attached materials and documents that will be considered) to ensure that it meets its legal obligation that prescribes that its sessions are public. MRT has available sufficient resources and is present on enough platforms and should be able to provide such information accessible to the public.

The second remark is that the Programming Council, while formally representing the interests of the public (in all of its diversity) in public broadcasting, seems to have no communication with the public to gain insight in its demands, needs and interests. It needs to establish a system for regular communications, from all the possibilities offered by the new technologies, to organisation of regular meetings with citizens and civil society representatives, as methods for collection of much needed information.

On the other hand, we should praise the fact that several members of the Programming Council seem eager to question and discuss the existing policies in various segments of functioning of the public broadcasting service. Examples for that in 2024 were the initiative for changes to the Electoral Code, in the provisions on fair and balanced coverage of the electoral processes, but also the raised questions about the sustainability and the need for change of MRT's policies to rely, for the bulk of the contents it produces and airs, on external independent producers and co-production projects, instead of using internal and highly qualified human resources.

5. ANNEX 1

In the 1st Quarterly Report, the Media Development Centre addressed, in detail, the changes to the LAAMS of February 2024 - the deletion of the ban on state advertising in broadcasting prescribed in former Article 102 and the entry into the Law of a complex and unnecessary solution which, instead of adequately regulating the issue of promotion (and advertising) of activities and services offered by state, government and public bodies, institutions and enterprises, in practical terms introduced a system of "indirect subsidies" in the area of audio and audiovisual media services.

The Institute for Media and Analytics (IMA) from Skopje is one of the few organisations that doesn't outright oppose any possibility for state, government and public bodies to promote their services (including through procurement of advertising time) and seeks legislative solution that would function to protect the public interest in that area. MDC asked IMA to prepare a short analysis that would elaborate that matter in detail and present their views and opinions on an adequate solution for the issue of "state advertising", i.e. the promotion of public interest campaigns in the media.

State Campaigns in the Media: HOW TO GET A LEGAL SOLUTION THAT WILL FUNCTION TO PROTECT THE PUBLIC INTEREST?

Written by:
PETRIT SARACINI, Institute for Media and Analytics IMA

More than a year has passed since the adoption of the changes to the Law on Audio and Audiovisual Media Services that abolished the ban on state advertising in broadcast media and introduced two new chapters with provisions on implementation of so-called "state campaigns" on national and local level, to be aired by the privately owned, commercial broadcasters. So far, the changes to the legislation have not produced any effect and no such state campaign was implemented in the past year. This fact alone is sufficient illustration of the claim that the new legislative solutions are bad and difficult to implement in practice.

The decisions on the campaign on national level were to be made by a commission composed of equal numbers of representatives of the political parties in the ruling majority and the opposition in the Parliament, but that body was not established within the legally prescribed deadlines after the constitution of the new Parliament. The decisions on the campaigns on local level were to be made by commissions composed of members of municipal councils, with proportional representation of political

parties represented in each respective council. So far, there is no information that any of the municipalities established such commissions. That prevented the implementation of all provisions on the state campaigns on national and local levels.

In fact, in spite of the very real need to implement such promotion campaigns on important matters of public interest, the institutions and the political parties themselves, through inaction, contributed to the violations of the new legal provisions. Therefore, the citizens and the general public were denied an opportunity to see the practical effects of the legal solutions that reintroduced state advertising in the country, an issue that preoccupied the public for a prolonged period of time.

On the other hand, it could be argued that the failure to implement state campaign was a good thing, having in mind the risks that the numerous omissions and incomplete or ambiguous provisions, duly noted by local and international media organisations and experts, including the European Commission. Those objections may have had influence on the political actors and media companies that pushed the hardest for adoption of such legal solutions, to "forget" about their implementation in the period after the adoption. Probably waiting for "better" times, or for a comprehensive reform of the media legislation, which is evidently necessary.

Satisfying political and business appetites, not the public interest - Legal solution that ignored the comments and proposals of media organisations and the expert community

The changes to the legislation, promoted most eagerly by the national commercial television broadcasters, were adopted in the Parliament in an expedite procedure, marked with a "European flag", with support of 78 votes of the MPs from the biggest parties in then ruling majority and the opposition.

Before the vote, the changes and the very procedure for their adoption were fiercely opposed and criticized by many professional associations of journalists and NGOs active in the media sector, who pointed out that those changes are in collision with the European Media Freedom Act and other European documents. In their reactions[15], they noted that the reintroduction of state advertising in commercial broadcast media would mean "return of patronage and corrupt practices from the past, with extremely harmful consequences for independence of media and freedom of expression in general" and that the proposed system for distribution of public funds "introduces systemic corruption in the commercial media sector, while the citizens, instead of quality news and information and new locally produced contents, will get (for their own money) ads promoting the state institutions".

15. See „НЕ за владини кампањи во медиумите и злоупотреба на ЕУ знамето во Собранието", AJM, November 4, 2023, available on URL

Those risks were noted in the North Macedonia 2024 Report[16] of the European Commission. "Government advertising in commercial media was reinstated in February 2024, increasing the risk of the potential misuse of political funds, endangering media independence and creating market disruption", notes the Report.

Legal solutions on state advertising have many defects

One of the most disputed issues with the new legal provisions was the composition of the bodies (commissions) that will decide on the implementation of state campaigns on national and local levels, composed exclusively of representatives of political parties in government and in opposition. In fact, they are the only bodies that can propose and decide which and what type of campaigns will be implemented and paid for with the money of the citizens. That means that all other actors and stakeholders in society, CSOs, experts, academia, including even all state and public institutions, are denied an opportunity to propose topics for organisation of campaigns and participate in the decision making processes. During the public discussion of proposed legal changes held in July 2023, IMA warned[17] that such a model brings about the risk of political influence and blockade of the process or distribution, or even having public campaign interest at all, which were later proved real by the fact that the relevant bodies were not established and no campaign was implemented yet.

This and other issues and dilemmas arising from the legal solutions on state advertising were described in detail by the Media Development Centre in the 1st Quarterly Report for 2024.

According to MDC, the potentially greatest issue is the abolition of the prohibition (article 102) for state bodies, bodies of the state administration, public enterprises, units of local self-government, public institutions and legal entities performing public competences, as well as commercial companies fully owned by the state to plan funds for purchase of air-time from privately owned broadcasters for public information and promotion of their services or activities. The new law offers no provisions or instruction for such entities, apart from the Government and municipal councils, opening the doors for misuses similar to those we witnessed before the introduction of the Article 102, back in 2018.

Similarly, MDC notes that the definition of "state campaign" doesn't list the subject matters and the areas for which a "state campaign" can be produced and disseminated. It is not clear why the definition excludes the promotion of services and policies of the state and/or local administrations, automatically limits the number of allowed subjects

16. See in „North Macedonia Report 2024", European Commission, October 30, 2024, available on URL
17. See in „Сарачини: Телото кое ќе одлучува за кампањи од јавен интерес да биде непартиско", IMA, July 19, 2023, available on URL

and issues for which a campaign can be implemented - for instance, environmental protection, public health, public safety, etc. come to mind. MDC also noted the inadequacy of the term "state campaigns" used by the Law, instead of "public interest campaigns" which is far more adequate formulation for the subject-matter of the regulation.

The report concludes that, while it formally regulates the issue of funding of production and distribution of state advertising, the primary intention was to introduce a system of indirect subsidies in the field of broadcasting. That is evident from the solutions that prescribe a linear distribution of ear-marked production/distribution funds; fixed allocations from the budgets (0,1 percent of the realized tax revenue for the state Budget and 0,5 percent of the realized tax revenue of the local self-governments) for variable number of campaigns (for government institutions at least one, compared to no more than four for the local self-governments). At the same time, MDC points out that the Law doesn't prescribe mandatory survey of audiences and their habits to determine which media are consumed by the target audience of any given campaign, in order to ensure maximum efficiency and effectiveness of the campaigns.

Another key issue raised by MDC is why the country doesn't copy the newly adopted European legislation in that area – the European Media Freedom Act[18] - which dedicates one chapter to the issue of state advertising and securing fairness and transparency of allocation of state advertising budgets. The regulation is not an act that requires the member-states (but also the candidate-countries) to align their national legislations with it, but is implemented as adopted, and that makes the changes to the LAAMS redundant.

How to get a legal solution that will function to protect the public interest?

Having in mind the numerous defects of the legal changes that regulate the state advertising in the media, it is the European Media Freedom Act and its provisions in this area that should provide the basis for complete review of our legislative solutions. In fact, the regulation should be taken as a whole and adopted into the national legislation.

The MFA clearly prescribes that public funds for state advertising to providers of media services and online platforms "shall be awarded in accordance with transparent, objective, proportionate and non-discriminatory criteria". In that regard, the new provisions on state advertising in the LAAMS don't cover the print or online media, meaning that they don't meet the criteria of proportionality and non-discrimination. The new legislation on state advertising should cover all types of media and all platforms, offline and online.

18. See in EU's „Media Freedom Act" (Regulation (EU) 2024/1083), available on URL

In this context, we should also point out that the new legal provisions prescribe that the state campaigns are implemented by the Government and the local self-government, although the provisions are part of the Law which emphasizes that its implementation shall be the competence of the Agency for Audio and Audiovisual Media Services. AVMS's role in the implementation of provisions regulating the state campaigns and advertising is, at best, only marginal. This inconsistency, too, indicated the need for full review of that part of the Law. One possible solution is to adopt a completely new, special law on state advertising, independent of the LAAMS, or to amend the Law on Public Procurement with new provisions that would cover the area of state advertising and promotion campaigns.

The MFA doesn't prescribe the actual bodies that will have competences to allocate and award state advertising funds in each individual state, because different states have different solutions in place - usually, those are media regulatory bodies, but also Government or ministry offices or other state institutions. Experience shows, however, that if such bodies are composed exclusively of political representatives (which is the can in our legislation), it increases the risk of misuse of state advertising for political influence and endangering of independence of media. For that reason, it is of key importance to adopt solutions that will ensure greater independence and inclusivity of such bodies, though involvement of representatives of professional media organisations, CSOs, experts and representatives of various stakeholder groups in society that have indepth understanding of the topics and areas in which there are issues that need to be addressed through public or state promotion or advertising campaigns.

In that regard, having in mind the diverse fields and areas in which a need for public promotion campaigns may arise, it seems that the reliance on a single body, composed solely of representatives of political parties, to decide on all state promotion and advertising campaigns is inadequate and wrong. It would be far better suited to the purpose if the determination of topics to be covered by public promotion campaigns was conducted as a wider consultative process organized by the Parliament (or the local municipal council), with possibility for all stakeholders to participate and present their proposals. Only then the Parliament (or the municipal council, as the case may be) would adopt decision/s on the topics that will be covered by state promotion campaigns, based on social needs, while individual commissions (not composed only of politically appointed representatives) that work under the auspices of respective competent state or public institutions would take care to operationalize the campaigns and allocate/award funds.

One important issue that is not even touched on by the legal solution we adopted is the manner in which it will be ensured that the state campaigns would be placed in the media channels and formats that have the greatest reach and influence on the target audience for which the campaign is intended. That is an extremely important

criterion that limits the possibility for indirect subsidizing and political influence on the media, at the same time increasing the effect and the value that the citizens will get for their money. For that reason, it is necessary for criterial for allocation of state advertising funds to include the goals and the target audiences of each campaign. Such a solution is applied in Canada[19], for instance, where criteria for selection of media in which state advertising will be placed include the goals, the target audiences, the market positioning, the timeframe of implementation and the budgets of the campaigns. That model is considered to be one of the most advanced and most transparent models of use of public funds for government, i.e. state advertising. Naturally, the determination and definition of goals and target audiences of a campaign will require proper comprehensive research of the audience and its media consumption habits, something that is totally absent from our legal solution and should certainly be incorporated in it.

Are state advertising and public interest campaigns necessary? Of course they are. To illustrate that point, we should note that in very near past, the country faced several disturbing events and phenomena that demonstrate the necessity for conduct of public interest campaigns to raise public awareness and educate the citizens on a number of issues. One example is the tragic night-club fire in Kochani that took 60 casualties, a consequence of systemic corruption and failure to implement safety and security standards in public buildings and facilities. We also had several cases of tragic traffic accidents that indicate the need to increase awareness about traffic safety issues. Another example were the numerous forest fires during the summer season, which resulted in destruction of a significant area under forests and had extremely negative environmental impact. We should also mention the daily reports of misleading and fraudulent advertising campaigns on the social networks that aim to collect the personal or banking account data of the citizens, ultimately costing them a lot of money.

All those issues were not addressed through intensified public communication efforts by the institutions, which would have been much more efficient and result in lesser damages and fewer harmful consequence were they accompanied by adequate promotion or education campaigns in the media. Alas! It seems that the existing legal solution doesn't provide for any functionality in that regard but was rather intended to satisfy political and business appetites of political and media power centres, not the public interest.

The inadequate regulation of state advertising is just one segment of a more complex problem that the country has with its media legislation, which was amended several times over the past several years, introducing partial and often harmful solu-

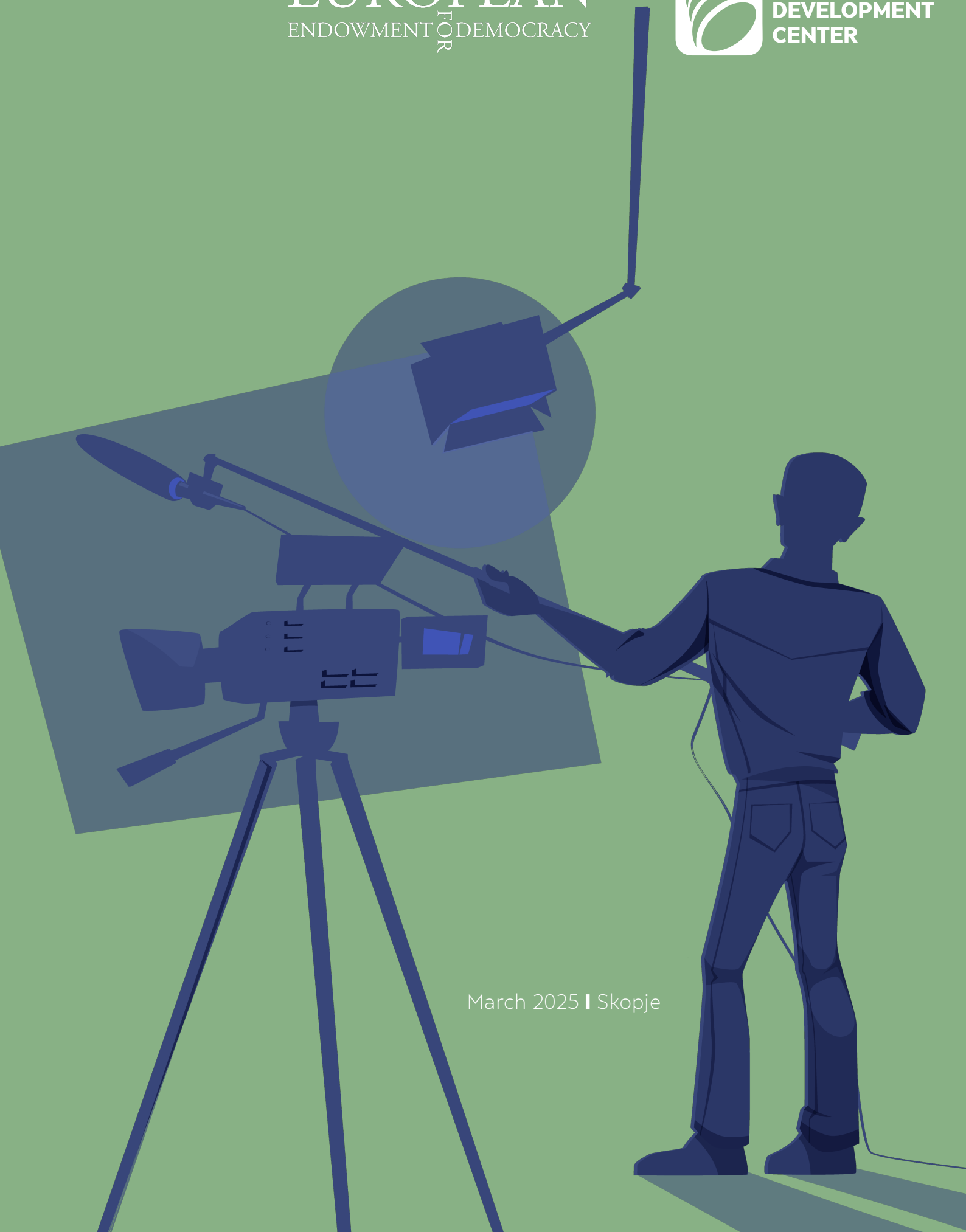
19. Види на следниот линк

tions, adopted on request of political or business interest groups and not to meet the needs of citizens and society in general. The tectonic changes that the new digital age brought to the functioning of the media, the new communication needs and habits of the audiences, bring about the need for full review and modernisation of the national media legislation so it can keep up with the global trends and be aligned with EU legislation in this field.

For the period ahead, the institutions have announced (the process is in fact under way) new changes of the media legislation, this time to meet the very real need to integrate the online media in the national regulatory framework. It may offer an excellent opportunity to open a more comprehensive debate on adoption of completely new media legislation, including on the issue of state advertising and public interest campaigns, but also the issue of political advertising in general. In that context, it is of essence to discuss the possibility for creation of a media pluralism fund that would allow the media to increase their capacities and produce contents that would contribute to public education and awareness on important social issues, instead of remaining only publication platforms, their survival dependent on the publication of state and political advertising.

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