

MONITORING OF MEDIA REFORM PROCESS AND THE WORK OF AVMS AND MRT

Report on 1st Quarter of 2020



Kingdom of the Netherlands

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INTRODUCTION

The need for comprehensive reforms of the media sector in the Republic of North Macedonia, which has existed for quite some time if not from the very moment the media system was created, was formally recognized and condensed in the recommendations listed by two important documents - the so-called «Priebe Report» (Recommendations of the Senior Experts' Group on systemic Rule of Law issues related to the communications interception revealed in Spring 2015), and the Urgent Democratic Reforms document prepared by the European Commission.

The reforms need to ensure adequate solutions for the open issues in several areas - sustainability of the media sector, independence of media from political and economic pressure, ensuring that the citizens shall have access to quality information, education and entertainment/cultural contents.

The Media Development Centre, with support from the MATRA Programme of the Foreign Ministry of the Kingdom of the Netherlands, under the auspices of the “Monitoring and Policy for Reformed Media Sector”, monitors the implementation of the media legislation by the Agency for Audio and Audiovisual Media Services (AVMS) and the Programming Council of MRT, as well as the overall process of media reforms. At the same time, under this project, MDC will prepare comments to all eventual legislative proposals and policy briefs and documents that will aim to assist the process of achievement of reform goals and objectives.

The other priorities set by the Government, the focus on foreign relations issues and the coming elections have all contributed for reforms of media sector to proceed at a painfully slow rate, lagging far behind the initially outlined timeframe.

This Report covers the period from January 1 to March 31, 2020.



Kingdom of the Netherlands

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REFORMS OF THE MEDIA SECTOR

Media reforms were very low on the agenda of policy and decision makers in the first quarter of 2020. Few exceptions we registered concerned the changes to the chapter on media presentation of election campaigns of the Electoral Code, introducing additional rules on the financing of paid political advertising, and the long-standing feud between national DVB-T broadcasters and the operators of public communication networks.

Appointment of New Steering Bodies of AVMS and MRT

Because of the focus on the coming elections, scheduled back then to be held on April 12, 2020¹, and the fact that the Parliament was disbanded on February 16, the procedure of selection and appointment of new compositions of the AVMS Council and the Programming Council of MRT remained on pause. Knowing that the new AVMS Council and MRT Programming Council shall have the key role in the design and implementation of future reforms in the media sector, especially in the area of audiovisual media services, all expectations that something could move forward are left for some undefined future time, in view of the fact that the global pandemic caused by the spread of the SARS CoV-2 virus (and the resulting Covid 19 condition it causes) has postponed the Parliamentary Elections.

Even after the Elections and the constitution of the new Parliament, it is difficult to expect any significant move in the right direction. The high threshold necessary to appoint the new steering bodies of the regulatory authority and the public broadcasting service, in the current political situation of almost total polarisation and inability for any party or coalition to secure such a qualified majority, practically makes the two bodies unelectable.

In spite of the worthy ideals of consensus about the names of the people who should sit on those bodies and their qualifications, we believe that intervention in the legislation is necessary to lower the threshold at the absolute majority of 60+1 MPs, and to secure an additional guarantee of creation of an external commission that will conduct the actual interviewing and selection of the final list of candidates that it will present to the competent Parliamentary committee to be adopted by the Parliament.

Electoral Code and New Rules on Media Presentation of Election Campaigns

The changes to the Electoral Code in 2019, before the Presidential Elections, in spite of the opposition to the introduction of financing of paid political advertising with public money, from the Budget of the Republic of North Macedonia, remained in force. The new changes² put different limits on the time that can be sold and aired

1. The Covid19 pandemic and the declared state of emergency meant that the Elections were postponed and, by the time of writing of this report, after prolonged negotiations, an agreement was reached to hold them on July 15, 2020

2. Law on Changes and Amendments to the Electoral Code (Official Gazette of Republic of North Macedonia, no. 42/20), available on the website of the [Official Gazette](#). It should be noted that, by the time of writing of this report, the Government intervened in the rules on media presentation with several decrees. Those decrees will be covered in the next quarterly report, for the period April-June 2020.

as political advertising by the broadcasters per every real hour during the election campaign, cutting it from 18 to 9 additional ad time per real hour of broadcast programmes³. Also, the generally worded terms “political parties in power” and “political parties in opposition” were replaced with the far more specific definitions “the two biggest parties” in government and in opposition, reserving for those two categories at most four minutes of the total of 9 minutes of political advertising per real hour. The political parties represented in the Parliament but without sufficient number of MPs to form a Parliamentary Club, and political parties not represented in the Parliament are now placed in the same category and can be sold, at most, one of the nine minutes secured for political advertising⁴.

Another novelty is the obligation for broadcast, print and electronic media (news websites) that want to cover the Elections and carry political advertising to register with the State Elections Commission not later than three days from the day on which Elections were announced⁵. The changes to the Electoral Code stipulate that unregistered media shall have no right to receive funding for paid political advertising, and that organizers of election campaigns shall be prohibited from commissioning advertising time and space in media that are not registered with the SEC⁶.

Another change refers to the price of a second of paid political advertising and the price of ad space in print and online media that can't ex-

ceed the average price calculated for the last five election cycles, replacing the previous solution of the average price for the past three months. That obligation shall also apply to the media that didn't cover all five previous election cycles⁷.

The Electoral Code introduces limits for the print and online media in terms of how much of the advertising space ear-marked for political advertising can be commissioned by the government and the opposition (that is, the two biggest parties in government and in opposition), which can get up to 45% each of the total space dedicated to political advertising, while up to 10 percent may be allocated to the parliamentary parties that can't form a Parliamentary Club and parties not represented in the Parliament⁸. Similar distribution of available resources is prescribed for out-of-home advertising (billboards, streetlights, etc.) with the government and the opposition (the two biggest parties in each grouping) being able to commission up to 40% of the available resources each, while parliamentary parties that can't form a Parliamentary Club and parties not represented in the Parliament can each get 10% of the available advertising space managed by the Municipalities, the City of Skopje and legal entities that manage the sale of ad space on billboards and other OOH advertising platforms⁹.

The Code introduces precise quotas for distribution of Budget funding among contestants in the Elections and the amount calculated at 2 Euro per registered voter. The biggest parties

3. Article 27, paragraph 1 of the Law on Changes and Amendments to the Electoral Code (Official Gazette of RNM, No. 42/20), referring to Article 75f of the Electoral Code.

4. Ibid.

5. Ibid.

6. Ibid.

7. Ibid.

8. Ibid.

9. Article 32 of the Law on Changes and Amendments of the Electoral Code (Official Gazette of RNM, no. 42/20), referring to Article 78a of the Electoral Code.

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in government and opposition can use up to 45% each of the total amount secured from the Budget, while the remaining 10% are reserved for the parliamentary parties without Parliamentary Club, parties not represented in the Parliament and independent candidates¹⁰.

In spite of the insistence, prescribed also in the Code, that the distribution of the Budget funds intended for financing of paid political parties shall be based on media plans presented by organizers of election campaigns, the Electoral Code limits the freedom of political parties and candidates to commission advertising space where they want and to spend as much as they want on different platforms. That is especially true of print and online media in which, according to the Code, participants in the Elections can't spend more than a quarter of distributed funds from the Budget to purchase advertising space on their platforms. In addition, there is a restriction on the funds that can be spent to commission advertising in a single print or online media outlet¹¹. These solutions are questionable from several points of view. First, although participants in the Elections are required to present media plans, they will not have the freedom to decide how and through which platforms they will promote their programmes. To the contrary, their media plans are semi-predefined and are expected to ignore the global trends of growing importance and influence of digital platforms in public communications. Second, it is evident that the Electoral Code favours broadcasting companies, against, disregarding contemporary global trends. Also, there are no clear instructions on the treatment of online extensions of

legacy media, especially knowing that many broadcasters moved to register their online extensions as independent entities, to be able to reach different shares of the available Budget funded advertising.

MDC has advocated for termination of paid political advertising in broadcasting/ audiovisual media, and that remains our main recommendation. On the other hand, the significance of the income earned from political advertising for the impoverished media probably means that paid political advertising in broadcast media is here to stay. In that case, we need to eliminate the possibility to finance political advertising with tax-payers' money. Limits on amounts that political parties can spend on campaign advertising are acceptable. On the other hand, restriction of prices of ads, or the choice of each individual party or candidate running in elections – parliamentary, local or presidential – where they intend to spend their media buying budgets are unacceptable. All such restrictions need to be eliminated.

Operators of Public Electronic Communication Networks and New Rebroadcasting Rules Related to Copyrights

The long-standing dispute between the televisions with permits to broadcast nationally, over the digital terrestrial multiplexes (DVB-T) and the operators of public electronic communication networks (cable, direct-to-home and IPTV platforms), that has been going on since the first half of the 2000s, again escalated at the end of February 2020¹². The new solution in the Law on Audio

10. Article 31 of the Law on Changes and Amendments to the Electoral Code (Official Gazette of RNM, no. 42/20), referring to Article 76e of the Electoral Code.

11. Ibid.

12. MDC reported on this topic in the previous [quarterly report](#)

and Audiovisual Media Services that imposes on operators of public electronic communication networks (PECN) a moral, criminal and material responsibility in cases when they rebroadcast programming services of foreign broadcasters containing contents for which broadcasting rights for North Macedonia have not been secured, entered into force with the changes to the LAAVMS of February 16, 2020¹³. Those changes obligated the Agency for Audio and Audiovisual Media Services to adopt the corresponding by-laws (although the Law on the Changes and Amendments to the LAAVMS has delayed implementation in the segment of adoption of by-laws resulting from the new provisions, until the appointment of the new Council of the Agency).

The AVMS Council, in its 11th Session, discussed the opening of the process of public consultations of the Draft-Rulebook on Changes to the existing Rulebook on the Content and Form of the Application for Registration in the Registry of Operators that Retransmit Programming Services and the Affidavit of Registration of Programming Packages/Services, as well as two draft-guidelines for registration and deletion of legal representative of a foreign broadcaster, as well as the procedure for determination of responsibility for violations that transpire during retransmission of foreign programming services. That procedure was stopped due to the activities of operators of public electronic communication networks and the Ministry of Information Society and Administration.

The PECN operators announced, on February 27, that they intended to terminate retrans-

missions of all programming services, domestic and foreign, with exception of the programming services of the public broadcasting service MRT (because of the legally prescribed “must carry” obligation), starting on March 3, 2020. They stated that the decision was motivated by the adoption of latest changes to the LAAVMS in urgent procedure, without proper public discussion. Then, after a series of meetings with government representatives, PECN operators gave up on their intent. In addition, during the state of emergency, when citizens’ freedom of movement was restricted due to the Covid19 pandemic, they decided to open their additional subscription packages to their users.

MDC has publicly voiced our position that operators of PECN can’t possibly meet such demands presented to them, because they are in no way a party in the agreements for sale and transfer of broadcasting rights, with exception of several cases of operators that run their own video-on-demand service. We believe that the existing obligation to present a valid agreement for rebroadcasting with the programming services they offer in their catalogues is sufficient.

It should be noted that the TV stations that transmit their signal over the satellite, especially broadcasters from EU member states, have the obligation to regulate broadcasting rights for the content they carry only for the territory of the country in which they are registered and that issued them a broadcasting permit. According to the Satellite and Cable Directive¹⁴, amended in 2019 with the Directive EU 2019/789¹⁵, because of the common

13. Law on Changes and Amendments to the Law on Audio and Audiovisual Media Services (Official Gazette of RNM, no.42/20), Article 1, referring to Article 46 of the LAAVMS.

14. Council Directive 93/83/EEC (Satellite and Cable Directive)

15. EU Directive 2019/789, adopted on April 17, 2019

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European market, it shall be understood that the fact they secured the rights for terrestrial broadcasting in their domicile country means that they have cleared the rights for satellite rebroadcasting of their programming services for the whole territory of the EU.

The new Directive covers, above all, the ancillary services that broadcasters transmit on the internet. For such ancillary online services, the right of the “country of origin”, that is, the understanding that if the rights were regulated in the domicile country, shall be considered cleared in all member-states in the common market, covers only the news and the programmes the production of which was fully financed by the broadcaster. As far as rebroadcasting rights are concerned, the Directive keeps in place the provisions that require the copyright-related rights for audiovisual works to be protected and exercised through a collective body, having in mind that only the holder of the exclusive right of communication of a work to the public may permit or prohibit the retransmission of audiovisual works¹⁶. The exception from that provision is made for broadcasting organisations and the rights to retransmit their programming services, regardless of whether the concerned rights were originally theirs or were acquired or transferred to them by other holders of rights¹⁷. How the Directive may resolve some outstanding issues remains to be seen, primarily from the practical implementation of its provisions in EU member states. To what extent it should concern us at this particular moment is not clear. North Macedonia is not yet an EU member state, but as a candidate

country, we are expected to align our legislation and practices with EU’s *acquis communautaire*, even before we officially join the Union.

Protection of copyrights is the exclusive right of the rights holder/author, and as a letter from the EU states, responding to an inquiry from the PECN operators, there is no place for the state or a public institution or regulatory body to stand between parties of agreements for acquisition or transfer of related rights, including the rights to broadcast contents on TV. The existing practice to request that TV screens are darkened when contents are rebroadcast for which a domestic broadcasting organisation owns the broadcasting rights for North Macedonia functioned well and should be enough. For any transgressions, seeking protection or remedy in court is available to all parties concerned.

DVB-T broadcasters with national coverage are constantly pushing for greater protections of their market position, accusing the PECN operators of “piracy” because they retransmit foreign programming services offering contents for which TV rights for our country may not have been secured. That is especially the case with the rights for major sports competitions¹⁸ and popular tele-novellas of Turkish production. The national DVB-T broadcasters demand protections because they operate in an oversaturated and unsustainable market that doesn’t offer sufficient income to allow them to procure latest, high-quality and popular TV production, especially the TV rights for most popular sports events and competitions, nor they can invest in their own high-quality production.

16. Article 4 of the Directive EU2019/789

17. Article 5 of the Directive EU2019/789

18. The supplements to the Satellite and Cable Directive (EU 2019/789) exempt sports rights.

In most countries, especially those in which no “must carry” provisions are offered in the legislation, the relations between the transmission platforms - cable, IPTV or direct-to-home satellite services - are regulated on strictly commercial basis. In North Macedonia, the power in those relationships is held by the platforms, to the extent that DVB-T licences today are not, by any means, a privilege for the broadcasting companies, in a situation in which over 90% of the citizens, according to surveys conducted by AVMS and published quarterly, access television through DVB-S, DVB-C and IPTV services¹⁹. As we said, without must carry provisions that would obligate PECN operators to carry the DVB-T national broadcasters (and that is a question of a separate dedicated analysis), it is the former that are in position to set the conditions. In the existing situation, if they want to be compensated for the retransmission of their programming services, the best solution for the DVB-T broadcasters would be some sort of agreement to package them in a special subscription package, to be offered by cable or IPTV operators, and then receive a portion of the collected subscriptions.

Essentially, the dispute has been going on for more than a decade and can be reduced to the question, should one of the two parties pay to the other for the retransmission, and if yes, who should pay to whom and how much? Therefore, we recommend a very cautious approach. The answer to that question will certainly depend on whether we keep the current hybrid audiovisual media ser-

vices policy which treats broadcasting as hyper-commercial (judging from the number of players in the market where the sole criteria for entry into the market is existence of free transmission capacities) and at the same time imposes on them clear public service obligations.

The management and owners of TV broadcasters need to understand that it is highly unlikely that the competition they face from foreign channels, especially broadcasters from the immediate neighbourhood, will somehow disappear and that the only way to fight for the audiences’ attention is to invest in higher quality contents of all types and genres.

*What the state should do, of course, is to start the work on establishment of a system for collective protection of copyright-related rights for audiovisual works, as required by the EU directive mentioned above. That is certainly our task as part of the process of EU accession and alignment of national legislation with the *acquis communautaire*.*

Pandemic and Audiovisual Media Services Sector

The Covid 19 pandemic couldn’t avoid influencing the media scene. The new circumstances were most evident with the public broadcasting service MRT which, for the purpose of reporting the course of the crisis and informing the public about the measures to fight the

19. The last several reports on total share of viewership of TV stations, prepared by AVMS (published quarterly and one cumulative annual report), the percentage of polled citizens who access television over terrestrial antenna doesn’t exceed 4 to 5 percent. See the [reports](#) on the website of AVMS

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pandemic, fully restructured its operations and dedicated the First Programming Service MTV1 and all available resources to the task at hand – reporting about the epidemic, airing information and education campaigns, informing the public about ways in which citizens can protect themselves and prevent infection, but also in terms of production of true education programming which is, in any sense of the word, a part of the national education system.

Similarly, the commercial media dedicated (and continue to dedicate) huge attention to the crisis, with regular live feeds from the press-conferences organized by the health authorities, reporting on different aspects of the crisis, and the manner in which the general population follows the instructions and adheres to prescribed measures of restricted movement and activities. Both the public broadcasting service and the commercial broadcasters deserve praise for their excellent work.

On the other hand, the economic crisis that emerged as result of shrinking economic activity, due to the restricted movement, days-long quarantines and curfews, couldn't avoid the media scene. In conditions in which advertisers moved to cut their advertising budgets – estimates from advertising market insiders range from 60 to 80 percent drop – the situation in the market, already marred by low sustainability, further deteriorated with many broadcasters and traditional media facing an existential crisis.

In order to help, the AVMS Council decided, in its 15th Session of March 25, 2020²⁰, to provide financial assistance of a total of 105 mil-

lion denars to help the efforts to deal with the Covid19 epidemic. The assistance was distributed between the public broadcasting service (30 million denars), commercial and non-profit broadcasters (73 million denars) to whom AVMS repaid the annual fee for the broadcasting license, and 1 million denars each to the Ministry of Health and Ministry of the Interior. The assistance for broadcasting media is given on condition that they should use it to procure protective gear to protect their personnel, production, procurement and transmission of programmes and continued functioning.

The decision is commendable, knowing that many broadcasters face difficulties with paying their annual license fee and financial difficulties in general, but it does raise several questions. Was AVMS's donation to the broadcasters covered in part with the funds collected from the payments of the license fee for 2020, or was it completely covered from Agency's savings accumulated over the past several years?

According to annual reports published by the Agency, and calculated from the difference in total income and expenses, AVMS collected total savings exceeding 2 million Euro (slightly more than 127 million Denars) between 2017 and 2019²¹. On the other hand, the 2020 AVMS Working Programme²² is the first that includes a line on "Surplus funds transferred from previous years" in the financial plan, worth 12.4 million Denars, although the difference between total income and total expenses in 2019 amounts to 43.5 million Denars. The annual programmes for previous years have no such entry, and the surpluses remain in Agency's account.

20. See the Minutes from [15th Session of the AVMS Council](#), March 25, 2020

21. [AVMS annual programmes and reports](#) are available on Agency's website

22. [The 2020 AVMS Working Programme](#) is available on Agency's website

We should assume that, were it not for the Covid19 pandemic, the savings (probably increased if the trends for the past three years continued) would have remained unspent. The second question, therefore, is why does the Agency keep such unspent funds and whether it has some plan or instructions what should be done with such savings.

We believe that the best solution would be – if the idea is for such funds, in accordance with the principles of non-profit work, – to return to the scene – is for the Agency to create, on its own or in cooperation with the Agency for Film, a fund for financing of audiovisual production. Another possible solution is to consider the possibility to lower the amount of the fee for the broadcasting license. The solution should be included in the relevant legislation.

Assistance for Print Media

In January 2020, the Government distributed the funds from the Programme for Support of Printing and Distribution of Print Media for 2019, on basis of a public call announced in

November 2019.¹² print media received about 710,000 Euro, out of the total of 810,000 Euro that were planned for the Programme. What is missing is a report or an analysis of the effects of the first year of the Programme, so that we can see if it achieved its goals, if the assistance was spent correctly and, ultimately, if it helped the print media in their everyday functioning? Did they manage to reach new audiences? Did their sales and readership increased or fell?

To illustrate the necessity for such an analysis, we should compare the print circulation (print media are legally obligated to publish their print circulation in every edition) of “Sloboden pecat” daily which, at the time when first discussions about creation of such a programme in 2018 printed about 13,000 copies, and now prints almost a third less, its print circulation standing at about 8,000 copies. If that is a universal trend, we should probably consider another approaches to support quality professional journalism that we get and expect to continue getting from the traditional media, especially the daily and weekly newspapers and other periodicals.

AGENCY FOR AUDIO AND AUDIOVISUAL MEDIA SERVICES

In the first quarter of 2020, the Council of the Agency for Audio and Audiovisual Media Services held 15 regular sessions and five public sessions. Like the Programming Council of MRT, the AVMS Council focused on its regular activities, having in mind that, until the appointment of a new Council, it has limited competences, especially in terms of adoption of by-laws and implementation of the provisions of the Law on Changes and Amendments to the Law on Audio and Audiovisual Media Services of December 2018 (and several changes adopted since then).

In the first quarter of 2020, the Agency started the work²³ on the adoption of the documents related to its role in the Elections, including the Methodology for Monitoring of Elections Media Presentation and the corresponding guidelines for confirmation of reports on broadcast paid political advertising. The process was interrupted after the Elections were postponed due to the Covid19 crisis.

The procedures against several radio stations for violations of provisions of Article 80 of the LAAVMS on the quotas for broadcasting of Macedonian music were completed during the period covered by this report²⁴. Procedures for revocation of the broadcasting license were launched against Radio Kapitol FM and Kanal 77 Radio. Those procedures were terminated after the two broadcasters agreed to pay the amount for which they got relief on basis of voluntary broadcasts of Macedonian music. Although we already covered this matter in detail in the previous report (Quarters 3 and 4 of 2019), we should repeat that in several cases of issuing warnings and possible sanctions, AVMS

invoked the adopted Guidelines, which can't be considered as by-laws and produce legal obligations for the broadcasters.

It is also evident that the interest for voluntary application for a certain quota of Macedonian music, as condition for reduction of the annual license fee equal to the proposed percentage of Macedonian music as share of total broadcast music, is dropping. Compared to 2019, when 29 radio stations that broadcast on different area of coverage pledged to broadcast a quota of Macedonian music, in 2020 the number of such stations has dropped by about a third, to 18 radio stations - one national broadcaster, 5 regional and 12 local radio stations.

This quarter also saw the end of the long and complicated procedure related to the start of broadcasts by Jon Radio, based in Struga, the new radio station with license to broadcast programmes on national level. After several initiatives to revoke its license because of violations of deadlines to start operations and failure to cover the legally required 80% of the population of the country, the AVMS Council stopped the procedure in its 15th Session²⁵, after it found out that Jon Radio meets all legal requirements for national broadcaster. The decision was preceded by several requests to the Agency for Electronic Communications to determine what kind of signal is broadcasted by the radio station and from how many transmitters. The delays of the procedure were due to the rather slow process of preparing a response to those inquiries by AEC, but also to the rather liberal interpretation of the rules by the Council which evidently had the will to assist the applicant to meet the criteria through extension of procedure²⁶. From

23. Minutes of [11th Session of AVMS Council](#), February 28, 2020

24. MDC reported on this topic in the previous [quarterly report](#)

25. See the Minutes of [15th Session of the AVMS Council](#), March 25, 2020

26. See the Minutes of [4th Session of the AVMS Council](#), [7th Session of the Council](#), or [11th Session](#)

the point of view of relevant legislation and by-laws, the allocated permit could have been revoked on several occasions, while nothing was to prevent the investor, once all criteria were met, to submit a new request for a license.

As is now a custom, the Agency dedicates a lot of time and attention in the first quarter of each year to the procedures related to the payments of annual license fees and procedures against broadcasters that fail to pay the fee on time. The failure to meet the payment deadlines are hardly a surprise, knowing the situation in the impoverished and oversaturated radio and television market. The Agency started procedures for termination of license for failure to pay the annual license fees against 9 television and 13 radio broadcasters.

Unlike previous years, all procedures were *de facto* terminated by the decision of AVMS, adopted on the 15th Session of the Council, held on March 25, 2020, to allocate assistance to the media to deal with the consequences of the Covid19 epidemic²⁷ by returning to the broadcasters the paid license fees for the current year²⁸.

In the first quarter, the Agency also announced three public calls for allocation of radio broadcasting permits on local level, for the municipalities of Kumanovo, Debar and Tetovo. The license for Tetovo was for non-profit radio intended for the student population of the Tetovo State University, for a new student/university radio. The public call for radio broadcasting license for the Municipality of Debar was a repeat call, after the first call was terminated

when no applications were submitted (the entity that filed the initiative for a public call didn't manage to apply because of last year's earthquake in Albania). The repeated call was also declared failed in the 14th Session of the Council²⁹ because no applications were submitted.

The AVMS Council held five sessions open to the public in the first quarter of 2020³⁰. The sessions open to the public are organized to allow the broadcasters involved in a procedure for termination of their broadcasting license to present their positions before the Council adopts a final decision. It should be noted that broadcasters directly concerned with the procedures didn't send representatives to any of the five sessions open to the public. For that reason, all sessions open to the public were concluded with a formal decision that there were no representatives of the respective broadcasters present in the session.

On the other hand, due to the Covid19 pandemic, the Agency didn't organize the regular public meeting, usually held in the last week of each respective quarter. The epidemic was also the reason for the decision of the Council to start holding its sessions over video-conferencing platforms, and the relevant official conclusion was adopted in the 15th Session of the Council.

In the period covered by this report, the Agency published the regular reports on the reach of radio stations and the share of total viewership of TV stations for 2019, and a separate report on the last quarter of 2019³¹.

27. See the Minutes of [15th Session of the AVMS Council](#), March 25, 2020

28. On March 29, 2020, the Agency announced that it intended to make a donation to TV Vis from Strumica, a regional DVB-T broadcaster, as assistance after the catastrophic fire on March 25 destroyed its studio and equipment. The formal decisions were adopted at the start of the 2nd Quarter.

29. See the Minutes of [14th Session of AVMS Council](#), March 12, 2020

30. The minutes from the five sessions open to the public are available at AVMS website, in the section "[Sessions](#)" (Sednici)

31. The information and data on the reach of radio stations and share of total viewership for television stations are available, for the [4th Quarter of 2019](#), and cumulative for [the whole of 2019](#)

PROGRAMMING COUNCIL OF MRT

The Programming Council of MRT went through its work in the first quarter of the year routinely, without any major discussion, debate, remarks or criticism of the management and editorial staff of the Macedonian Radio and Television.

As already noted, the appointment of the new composition of the Programming Council remains stuck in the Parliament and we can't expect any progress until the election of the new Parliament. The mandate of the incumbent Programming Council expired at the end of December 2019, but the Law stipulates that they shall hold their offices until the appointment of the new Council, without the rights to adopt any key documents, including the by-laws that arise from the changes to the Law on Audio and Audiovisual Media Services. That was the main reason the reappointment of director Marjan Cvetkovski to another three-year term in office was disputed, since the Law clearly prescribes that the Director and the Programming Council of MRT shall stay in office until the appointment of the new Programming Council.

The LAAVMS, on the other hand, doesn't offer any instructions on the mandate of the Supervisory Board of MRT, which expired on March 5, 2020. Namely, it is not clear if the Supervisory Board shall remain in place until the appointment of the new composition of the Programming Council. The Programming Council, in its 104th Session of January 16, 2020³², adopted the position that MRT should not be left to function without one of the key bodies in

its management structure and announced the public call for new members of the Supervisory Board. The Association of Journalists of Macedonia demanded, with the rationale that the Programming Council with expired mandate can't appoint the new Supervisory Board, that the public call is revoked and calling on the Parliamentary Commission on Elections and Appointments to reach an agreement and to appoint the new compositions of AVMS Council and the Programming Council of MRT.

The Programming Council, with individual voting, appointed the new composition of the Supervisory Board³³ in its 106th Session. The new Supervisory Board, for the next five years, will be composed of Darko Stefanovski, Ljupčo Zoreski, Nikola Gjorčev, Marina Dimovska, Kostadin Tasevski, Bekim Shaqiri and Bekim Adili. It is unclear what will happen to their mandates, disputed as illegal and illegitimate, after the appointment of the Programming Council which, according to the 2018 changes to the LAAVMS, should appoint the new managing bodies of MRT.

In the first quarter of the year, the Programming Council held eight sessions. The minutes recorded in the sessions held during the period covered by this report, with exception of the minutes from sessions 106 and 109, were published on the website of MRT.

The sessions were held without being announced in public and without presence of the media or members of the public³⁴. The journalists and the members of the public interested

32. Minutes of the [104th Session of the Programming Council](#), January 16, 2020

33. [Decision for appointment of Supervisory Board of MRT](#), February 6, 2020

34. Article 122, paragraph 1 of the Law on Audio and Audiovisual Media Services states: "Sessions of the Programming Council of MRT are public". See in [LAAVMS](#)

to be present and observe the sessions are required to inform the Council in writing, and in advance, which points on the agenda they are interested in, although there is no way they could find the agenda and the actual points to be discussed in advance.

The public calls for independent producers and coproduction projects were announced regularly, and the suspicions that the best projects were selected are voiced with similar regularity. In that way, the public broadcasting service constantly provoked questions about the transparency of its financing and fed suspicions surrounding the relevance and the quality of broadcast coproduced contents, including allegations of corruption and conflicts of interest in the managing bodies that decide on those matters. There are, however, a number of projects that were successfully promoted and recognized by the public, and the minutes from the sessions recording the discussion of such projects indicate willingness to be more open to the public in the future.

In the 105th Session³⁵, for instance, the Programming Council discussed the signed agreements, copyright-related issues and the fact that the Supervisory Board was not informed about the projects commissioned from independent producers.

The Editor-in-Chief of the First Programming Service and the Director for MRT, on request of the Programming Council, presented copies of the co-production agreements with production companies “OHO” and “Rifental” for projects

“Prespav”, “5+” and “Dajte muzika” (Give us music). The discussion indicates that the Supervisory Board was not informed about the agreements that were concluded, at any stage of negotiation, signing or after, although they exceed the upper limit of 3 million denars which, the Statute of MRT stipulates, means that the Supervisory Board should be duly informed about. The information presented to the Supervisory Board didn’t list the value of the agreements and reaction was submitted to the responsible editors.

The Programming Council requested that it is presented with written information by the producer of “Give us music” programme, the production company “Rifental” with proof that it has regulated the rights with the authors, performers and all other persons that participated in the production and those whole works were used, as well as proof that payments of honoraria was completed for all personnel involved in the project before the public service broadcaster pays its share in the project. The Council also requested to be presented a copy of all episodes of the “Give us music” series that, according to the editors, were corrected or not aired in MTV’s programmes.

In its 108th Session³⁶, the Programming Council discussed the reports on the projects from independent producers accepted in the last public call. The Programming Council mandated the Editor-in-Charge of the First Programming Service to present information and copies of the agreements signed with the independent producers selected, pursuant to decisions for selection of projects of January 31 and February 7.

35. Minutes of the [105th Session of the Programming Council of MRT](#), January 22, 2020

36. Minutes of the [108th session of the Programming Council of MRT](#), February 20, 2020,

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According to the competent Commission for Selection of Programming Contents, three projects applied to the call. The “3D Project Studio” will receive 3450 Euro per episode (VAT excluded) for 31 episodes, lasting from 20 to 30 minutes, of the quiz show “Brzi misli” (Fast thinking). The “MasterChef” series got 48 episodes approved, each lasting 30 minutes, at a price of 1770 Euro net per episode. Finally, MTV will secure 20,000 Euro (VAT not included) as its share in the co-production project “European Stories”, to be realized by the “EuroVision” production company, covering six 50-minute episodes.

The Programming Council adopted the Report on Financial Operations of MRT in the last quarter of 2019 (covering the period from October 1 to December 31, 2019)³⁷. According to the Report, MRT spent 745,000 Euro on coproduction projects to film and broadcast specific genre series and shows on music, fashion, traffic, entertainment, children programming - the 4th season of sit-com “Prespav” together with special New Year’s Eve show; the “5+ Familija” in Macedonian and Albanian language; “Dajte muzika”, a number of episodes of the “Kompromis” programme, the “Tunel” project, etc.).

The Programming Council reviewed information on the Regional Meeting on models of management, regulation and financing of public media services in the Western Balkans in its 107th Session³⁸. The Regional Meeting, held in Skopje, discussed the issue of financing of the public broadcasting service and the disregard for the legally prescribed percentage from the Budget of North Macedonia that is paid to

MRT, the need for change of the status of its employees, external influences, the status of MRT as public enterprise, etc.

The participants in the meeting, in a joint statement³⁹, expressed concerns about the difficulties faced by the public broadcasting service in the efforts to meet its obligations towards the society because of financial, legal and administrative problems it faces. It was recommended to all relevant institutions and the civil sector to join forces and prepare a list of emergency issues that need to be resolved and treated as a priority after the election of the new government. The most important of those questions is how to ensure full adherence to the law and to correctly implement the Law on Audio and Audiovisual Media Services, especially in the segment of independence of the public media service and its financing.

The Programming Council also reviewed the new five-year strategy for development of MRT. The draft-Strategy sees MRT in 2024 as the leader in the media scene, promoting new values and quality assurance systems that would hold it become the best viewed and listened media outlet in the country. The members of the Programming Council adopted instructions for the Strategy to be presented to public debate rounds that would involve the expert and general public, before being submitted back to the Council for adoption.

The draft-Strategy prescribes, among other things, the MRT should base the focus of its activities on the “principle of universality”,

37. [Report on the Financial Operations of MRT](#) for the period October 1 – December 31, 2020

38. Minutes of the [107th Session of the Programming Council of MRT](#), February 13, 2020

39. [Press release from the Regional Meeting](#)

providing wider spectrum of programmes that aim to inform, inspire, entertain and attract the diverse social interests, believing that universality will contribute to the development of the nation as a “community” with common cultural background and identity. It would ultimately result with establishment of many specialized programming services.

The independence of the public service is placed high on the list of priorities for MRT and the broadcaster needs full economic and political independence, editorial and institutional autonomy and stable and adequate financing.

The public service aims to create a framework for quality measurement and assessment, improving the competition among the employees and would attract some of the quality people that have left the company back to MRT. The planned creation of MRT’s internal education centre will allow for creation of quality personnel in-house. According to the Draft-Strategy, MRT should seek forms and methods of distribution on the new digital platforms - internet and mobile - and new programming services and contents to be offered by Macedonian Television and Macedonian Radio.

According to the Draft-Strategy – and that is a position shared by the Media Development Centre – the work and operations of the Macedonian Radio and Television should be regulated with a special Law on Public Service Broadcasting, which will implement all the necessary legal solutions to ensure unimpeded functioning of the public broadcasting ser-

vice, free of any form of political or economic pressures and implementation of European audiovisual legislation.

The financial operations of the public broadcasting service were reviewed and discussed in the 110th Session of the Council⁴⁰. We should note that the Council adopted almost all reports covering the work and operations of MRT without many remarks and unanimously.

In the last quarter of 2019, MRT suffered a significant loss due to the decision to write-off the outstanding claims it had on grounds of uncollected broadcasting fee. The written off claims amount to approximately 33 million Euro. Due to uncertainty that the claims will be collected and violation of legal obligations by the Internal Revenue Office (the tax authority), MRT moved to write off the claims on grounds of uncollected broadcasting fee worth 703.071.769 denars.

According to the financial report, MRT continues to reduce its outstanding obligations and debts. The total amount of outstanding debt towards its creditors and various clients and entities was reduced by 177.661.330 denars. Between 2013 and 2019, the total outstanding obligations were reduced by more than 14 million Euro, states the Report on Financial Operations of the Public Broadcasting Service for the last quarter of 2019.

In the period October-December 2019, MRT realised total income of 240.162.984 denars (approximately 3.89 million Euro). The

40. Minutes of the [110th Session of the Programming Council](#), March 12, 2020

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main source of finances were the funds from the Budget of North Macedonia - distributed through the Ministry of Information Society and Administration. Sales of advertising time produce income of just 3.098.751 denars (app. 53,000 Euro). In the period October-December MRT recorded total expenses of 974.627.511 denars, or about 15.8 million Euro.

In its 111th Session⁴¹, the Programming Council adopted the Report on the Implementation of the 2019 Working Programme of the PE Macedonian Radio and Television unanimously, without extensive discussion or remarks.

Although the Programming Council adopted the necessary decisions for creation of new programming services – Programming service in Albanian, programming service in the lan-

guage of other communities, children channel and sports and entertainment channel – in December 2018, the new programming services have not yet started broadcasting in the first quarter of 2020.

The Programming Council requested from the Director of MRT and the responsible editors to present it with information about the programming scheme of the Children Channel and plans to fill in the slots of programming that will now remain free in the 1st and the 2nd Programming Services.

In the 111th Session the Programming Council also requested to be informed about the Correspondents' Centres – how they work, if they are active, how well equipped they are, what is the ratio of journalists to technical staff and other aspects of their functioning.

41. Minutes of the [111th session of the Programming Council](#), March 30, 2020

CONCLUSIONS

The work on the media reforms and the work of the MRT and AVMS during the period that is subject to this report were greatly influenced by the preparations for the Early Parliamentary Elections, scheduled at the time for April 12, 2020.

As a result, we had yet another set of changes to the Electoral Code, in the chapter on media presentation of election campaigns, and especially on the financing of paid political advertising from the Budget of North Macedonia.

The rush to resolve the matter of the new obligations for operators of public electronic communication networks, their relations with foreign programming services they retransmit, but also their relations with the domestic DVB-T national televisions, because of their importance in the promotion of electoral platforms of candidates and parties running in the elections, was also motivated by the coming Elections.

On the other hand, all activities were disrupted at the end of the quarter by the global pandemic of Covid 19. Therefore, the Agency for Audio and Audiovisual Media Services terminated the procedure for adoption of the Methodology for Monitoring of Election Media Presentation and the other documents it needed to adopt.

As is that case with the national economy in general, the health crisis produced a serious crisis in the media market, due to severe cuts in the advertising budgets. AVMS reacted first with a serious donation for the commercial broadcasters and the public broadcasting service, to help them deal with the consequences of the crisis.

The Government, after the declaration of the state of emergency in the country on March 18, got authority to rule by decree. A number of decisions and decrees it adopted covered issues related to the work of the media, and we shall discuss those in the next quarterly report.

MONITORING OF MEDIA REFORM PROCESS AND THE WORK OF AVMS AND MRT

Report on 1st Quarter of 2020



JUNE 2020