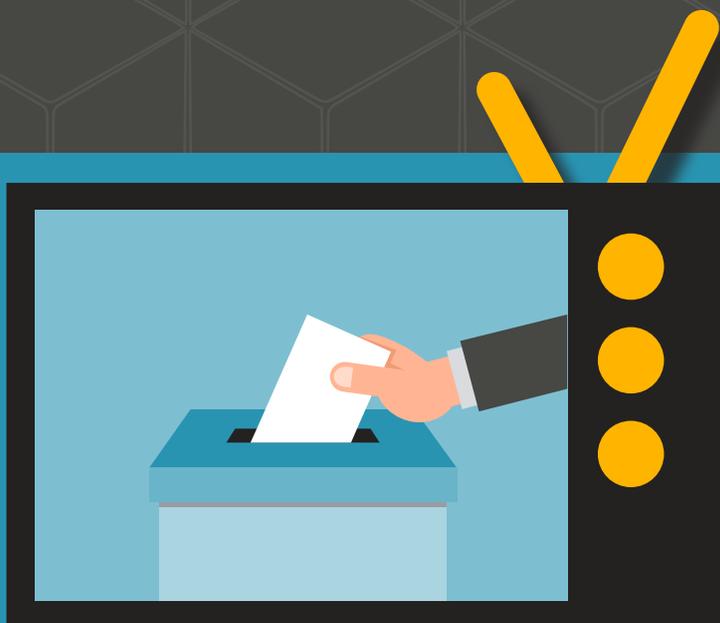


Guide for ethical media coverage of elections in North Macedonia



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Association of Journalists of Macedonia

Guide for ethical media coverage of elections in North Macedonia

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I. ETHICAL STANDARDS AND THE ROLE AND IMPORTANCE OF MEDIA DURING ELECTIONS IN NORTH MACEDONIA

Marina Tuneva, PhD

Elections pose a major and serious challenge for media reporting, especially in fragile democratic societies. It is a period when the urge to change the government, the policy of taking action and the political actors intensify and become the central focus of public and media attention. Without professional media reporting, one cannot envision fair and free elections in the country.

Hence, media are of major importance when it comes to elections. They serve as the main source of information for the majority of voters about the elections, various participating political parties and candidates in elections, as well as the manner of exercising the voting right. Also, media have powerful role in educating voters about numerous election related matters. They have crucial importance and role for preventing and/or exposing political corruption and other concerns that may be detrimental to the electoral process.

In general, media have three crucial roles about elections:

- 1. To inform;**
- 2. To act as watchdogs;**
- 3. To act as citizens' voice and promote debates and discussions.**

The informative role of media entails providing balanced and accurate reporting about the campaign of all political parties, and this would help citizens make an informed decision about their vote. Media also perform their role by conveying information from the election administration by representing the candidates and manner of voting. Also, they perform the informative role of familiarizing the general public with the views of analysts and public opinion makers.

Furthermore, media have the function of watchdogs regarding the fair and proper conduct of the electoral campaign and the voting process. Among others, they have a role to ascertain whether corruption (e.g. vote buying) took place, whether the freedom of expression was endangered, whether the election administration responsibly implemented its competences, etc. Some questions that media might raise while acting as watchdogs:

- Are all entitled voters able to vote?
- Are all political parties able to hold rallies without any safety concerns? How will they be protected?
- Are all political parties given adequate space in the news and public forums from which the media report?
- Are the polling stations secure? Who will secure the ballot boxes and who will perform any ballot recounts?

Media also act as citizens' voice, thus enabling them to express their thinking and views about matters and topics that are relevant to them. In particular, journalists should aim to encourage the people whose views are ignored or are not able to express their opinions. They should report the views of minority-group representatives, professional associations, women's groups, human rights organizations, etc. These are interest groups whose points of view should be disseminated by the media.

Media can encourage dialogue which includes a diversity of voices, and provide analysis that uses representatives of minority groups as experts who can discuss or voice their opinion on range of topics. By performing an informative role and opening the space for debates and discussions, media provide institutional assistance and guidance to the citizens regarding the voting process.

Media also have the following roles during the election campaign:

- **Education of voters** on how to exercise their democratic right to vote;
- **They provide a platform** for the public to communicate its concerns, needs and views to the parties and candidates and to interact on these issues;
- **Critical analysis** of the electoral process itself, to evaluate its fairness and efficiency and comparison with previous election campaigns;
- **They provide a platform** for the political parties to view their proposals and compete with ideas, as well as to debate with each other;
- **Report on results** and monitor vote counting..

To perform these key roles, media need to be free from any possible influences, pressures and interests of various centers of power. Such interests may be related to the ownership of media outlets, control by the government or political parties, regulatory restrictions, financing of media which could impact on its independence or objectivity, etc.

It is of utmost importance that media perform their work in ethical and professional manner and serve the public interest. In resisting pressures, journalists must rely on the ethical principles and legal duties on which their craft rests. No universal charter of rules exists and codes of ethics are similar worldwide.

The professional work of journalists must be truthful, by using credible information, as well as balanced, neutral and respectful of human dignity. "Implicit in these requirements is a sense of morality and of responsibility as well as the ability to understand opposing points of view, including those that the journalist does not share. Above all, regardless of socio-political circumstances, a journalist's primary responsibility is to his/her fellow citizens"¹.

Being a crucial party in elections, journalists have important role to facilitate the political discourse, enhance transparency and exchange of information, by serving as efficient forum for public debate whereby they contribute to enhancing the democratic process.

Recommendations for preparations and professional reporting about elections

Elections are political events that take place in various societal contexts, and any irresponsible, biased or unprofessional media reporting may exacerbate the problems. "Some parts of the electoral cycle are particularly vulnerable to these problems, in particular the electoral campaign period and the post-polling period when the votes are counted and the results

¹ Reporters without Borders, *Organization Internationale de la francophonie (2015) Handbook for Journalists During Elections*, available at: https://rsf.org/sites/default/files/handbook_for_journalists_during_elections.pdf, accessed on 30.12.2019.

are being released.”² They must commit to delivering thorough, verified, and unbiased information, pulled from a number of diverse unrelated sources. At the same time, they must refrain from publishing information that encourages divisions or antagonistic discussions, which are likely to incite violence or jeopardize social cohesion³. However, newsrooms often decide to cover certain issues of public interest with the aim of exposing problematic aspects which require special attention.

Journalists should be properly prepared for the election coverage by collecting factual information and analyzing the parties' and candidates' programs beforehand. They should be ready to offer various points of view from a broad variety of stakeholders, and not only the views of political parties.

Elections in North Macedonia have been repeatedly observed by international and national organizations. The ODIHR final reports include a number of recommendation related to media ethical coverage of elections.⁴

² United Nations Development Programme (2015) *Media and Elections – a Guide for Electoral Practitioners*, available at: https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/media-and-elections--a-guide-for-electoral-practitioners.html, accessed on 10.01.2020.

³ Search for Common Ground (2011) *Responsible Media Coverage of Elections – a Training Guide*, available at: https://www.sfcg.org/programmes/rfpa/pdf/2011-Responsible_Media_Elections_Color_EN.pdf accessed on 11.01.2020.

⁴ For example, see ODIHR Election Observation Mission final report for the North Macedonia 2019 presidential election, recommendation 21: “The state should further publicly promote the existing self-regulatory mechanisms and bodies established to protect professional and ethical journalistic standards, such as the Council of Media Ethics. In addition, it should consider structural and targeted policies to enhance the quality of journalism, including in local media, and to strengthen media and digital literacy.” See also ODIHR Election Observation Mission final report for the 2017 local elections, recommendation 26: “The MRT should strengthen its role as public broadcaster by improving the quality of the programmes. It should promote pluralism, provide a broader range of political viewpoints, professionalize journalism, disseminate voter education programmes and increase women’s political participation by providing them with greater news coverage.”

Main issues of reporting during electoral campaign

During an election campaign, there are, **three main parts of election coverage in the media:**

- **Political parties and candidates.** All parties should have unimpeded access to the media to be able to express their political programs. Media, except public/state media, are free to express political preferences, but these should be clearly stated, so the audience is informed about. In such cases, it is of outmost importance that the audience of these media outlets are given the chance to hear the opposite views and the candidates the ability to express them. Professional journalism implies that voters are not instructed which is a better political party, but rather receive information to be able to make their choice and put their trust in.
- **Appearance of each political party.** Each political party has its stand-points about most of the relevant matters, topics and reasons based on which they believe citizens should vote. Most of the political parties focus the public attention on their leader, thus expecting that citizens shall vote for the party candidates. An electoral campaign includes speeches, rallies and press conferences that present the party leader in the spotlight. However, media should not only report about the leaders' statements, but also about the citizens' response, opponents' views, attendance, etc. Media have the task to report about the differences among political parties regarding the same matters, and voters to be provided with sufficient information for comparison. The analytical role of media also implies an attempt to cover matters not discussed by party candidates or politicians, but which are relevant for the people.

- **Election administration process.** Media should inform about the means in which voters can exercise their voting right, the duration and conduct of the electoral campaign, competences of the State Election Commission, how the results are processed, the amount of funding spent during the electoral campaign and many other matters.

Abuse of incumbency

"The media needs to report on the official work of the government and sitting ministers during the electoral process, but this advantage can often be exploited by incumbents as means to increase their campaign exposure"⁵. Governmental representatives may try to include electoral campaign activities as part of the institutional official activities (for instance, ceremonial openings of various centers or facilities, delivering speeches at universities, etc.). Hence, it is of utmost importance to distinguish between campaigning and official activities of politicians. "Journalists should commit to making an effort to separate activities of that type and avoid any privileged treatment of representatives of the government. This is truly important in the context of the commitments to ensure autonomy and independence from political and economic centers of power"⁶.

Reporting about voting and results

The Election Day is a top headline and media have a major role to ensure that each voter casts his/her vote in secret and free elections; all ballots are properly counted; and the process is free of any misconduct. They follow the work of the State Election Commission and its operational rules and pay attention whether the rules are consistently and properly applied. Whenever a fraud or interference with the voting right is noted, media need to report

⁵ United Nations Development Programme (2015) *Media and Elections – a Guide for Electoral Practitioners*, available at: https://www.undp.org/content/undp/en/home/librarypage/democratic-governance/electoral_systemsandprocesses/media-and-elections--a-guide-for-electoral-practitioners.html, accessed on 10.01.2020.

⁶ Macedonian Radio Television (2016) *Ethical and professional principles of MRT for media coverage of electoral processes*, available at: <http://vistinomer.mk/wp-content/uploads/2016/01/Eticki-kodeks-na-MTV1.pdf>, accessed on 29.12.2019.

without making judgements or assessments that it also takes places in the wider environment or area, that is, avoid any generalization from one incident. Coverage which is based on speculations and assumptions and without facts may cause further incidents and provoke a rhetoric of mutual accusations.

The role of media does not end with the tabulation and release of results. Media are expected to make analyses and report about the voting trends, changes brought about by elections, underlying reasons, citizens' views, analysts' assessments etc. Journalists need to particularly remind the general public about the promises made by the winning political party in order to hold the government accountable.

Key principles in selecting a topic for media coverage

Editorial offices must carefully select the topics of their media coverage. Real editorial independence is paramount, including the decision which campaign topics are the most important regardless of incumbency or political affiliation.

When making the decisions, these criteria could be used as guidelines:

- **Importance and relevance of the topic.** Editorial offices should aim to select topics which are significant and of essential importance for the country. It is recommended that editorial offices connect any important daily developments for the general public with their media coverage of elections. When complex election topics are treated this way, the audience will be able to easily comprehend but also to be educated about significant matters.
- **Distinction between topics of public interest and matters of private concern.** The concept of public interest involves matters that are held to affect a considerable number of people. There are media stories and issues which are not of public interest, but which are of great interest to many members of the public. Individuals forgo their right to privacy

in the name of a higher interest, and that interest is the interest of the collective, namely, when it is in the public interest. There should be a clear distinction between sensational information (for instance, politicians' private life) and substantive topics and events which are relevant to the society and the general public interest.

Professional and ethical standards in reporting about elections

Media have the same responsibilities when reporting about elections as for any other topic. Media must adhere to the fundamental principles and standards of reporting at any time and for any topic of public interest, as well as in their reporting on elections.

Some guidelines and recommendations based on the most relevant universal principles of the profession and deriving from many national and international election related documents (International Federation of Journalists, Reuters Foundation, Reporters Without Borders, Article 19, etc.) are presented below.

ACCURACY. Journalists bear the obligation to report truthfully by comprehensively presenting the reality through facts and arguments. They need to critically approach the information, which implies examination and verification of all information. All sources of information must be clearly and precisely cited, with exception of circumstances when media need to ensure the identity protection of the source that provided certain information. "Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively"⁷. Also, a journalist may not cover up or ignore information of essential importance.

⁷ Article 19 (1994) *Guidelines for Election Broadcasting in Transitional Democracies*, available at: <https://www.article19.org/data/files/pdfs/tools/electionbroadcastingtrans.pdf>, accessed on 03.01.2020.

IMPARTIALITY. It implies that a journalistic reporting makes clear distinction between facts and opinions. "Presenters and journalists may not express their own political views and opinions in the news"⁸. Media can quote different sources of information and then fact-check what was said, disclosing any falsehoods by citing a fact. This means that no bias exists in favor of or against any side. "This principle entails inclusiveness of reporting – considering the wide perspective and ensuring that all existing different views are adequately presented. All journalists have their own opinion, and to be able to fully and professionally cover the news and ongoing events, they must rise above their personal views"⁹. The Code of Journalists of Macedonia (Article 14) stipulates as follows: "Reporting on political processes, especially elections, must be impartial, balanced and fair. The journalist must make professional distance from the political subjects"¹⁰.

BALANCE. The media should provide equal access, with fair, balanced, and impartial coverage for all parties and candidates running for elections. Media coverage of party programs and debates among political parties or candidates should be done in such a way that citizens are able to make a comparison and draw conclusions. "A journalist may raise questions, present different points of view and add basic information and context, but always ensure balance and neutrality"¹¹.

HONESTY AND INDEPENDENCE. Media should adopt an honest approach to obtaining and presenting information. "Media should avoid sensationalistic presentation of topics and events, as well as wrongful assumption that may mislead the audience"¹².

⁸ Macedonian Radio Television (2016) *Ethical and professional principles of MRT for media coverage of electoral processes*, available at: <http://vistinomer.mk/wp-content/uploads/2016/01/Eticki-kodeks-na-MTV1.pdf>, accessed on 29.12.2019.

⁹ Ibid.

¹⁰ Association of Journalists (2001) *Code of Journalists of Macedonia*, available at: <https://znm.org.mk/кодекс-на-новинарите>, accessed on 03.01.2020.

¹¹ Ibid.

¹² Council of Media Ethics of Macedonia (2016) *Charter of ethical media reporting on elections*, available at: <https://semm.mk/novosti/2015-08-11-15-03-18/204-2016-01-27-13-41-21>, accessed on 04.01.2020.

USE OF ADEQUATE VOCABULARY AND CAREFUL USE OF WORDS. Words used by journalists in their reporting influence whether the news will help to build understanding or reinforce misperceptions and fear. Language has to be used with care to avoid any possible harm. This particularly applies during elections when political candidates get greater attention by making sometimes emotional statements. Journalists should try to avoid imprecise and accusatory words which inflame more than inform. "If political candidates use these words, they should be directly attributed to the candidate and not just reported as facts"¹³.

DEALING WITH HATE SPEECH AND INFLAMMATORY OR INTOLERANT RHETORIC. One question raised during elections is how should media outlets deal with hate speech and intolerant or inflammatory rhetoric. Journalists must refrain from endorsing or using any hate speech (Venice, 2005) and "national law and practice should distinguish clearly between the responsibility of the author of expressions of hate speech, on the one hand, and any responsibility of the media and media professionals contributing to their dissemination as part of their mission to communicate information and ideas on matters of public interest on the other hand."¹⁴

Journalists must refrain from using and endorsing hate speech and intolerant or inflammatory rhetoric, but in cases when it is used by candidates, must report with extreme care and in a manner which allows to convey the candidate's use of rhetoric, but does not propagate it. "Journalists shall ensure that the dissemination of information or opinion does not contribute to hatred or prejudice and shall do their utmost to avoid facilitating the spread of discrimination on various grounds"¹⁵. More specifically, "media should refuse all open or furtive expression of intolerance and should consider carefully if publication of such expression is conducive to defamation and ridicule based on sex, race, colour, language, faith and religion, affiliation with national or ethnic minority

¹³ International Media Support, Media & Democracy Group, Réseau Liberté (2006) *Coaching Manual for Media Support During Elections*, available at: https://en.unesco.org/sites/default/files/coaching_manual_for_media_support_during_elections_en.pdf, accessed on 05.01.2020.

¹⁴ Council of Europe, Committee of Ministers, Recommendation No. R (97) 20 of the Committee of Ministers to Member States on "Hate Speech", accessed on 05.02.2020.

¹⁵ International Federation of Journalists (2019) *Global Charter of Ethics for Journalists*, available at: <https://www.ifj.org/who/rules-and-policy/global-charter-of-ethics-for-journalists.html>, accessed on 06.01.2020.

group, social difference or other opinion"¹⁶. Stereotypes and discrimination are damaging to under-represented groups because they constrain individuals and society as a whole.

PROPER DEALING WITH RESULTS FROM OPINION POLLS. Whenever the media publish results from opinion polls, that should be done in an objective and accurate manner with all available information that enable the audience to get a clear picture. A broadcaster which publishes the results of an opinion poll should identify the organization that conducted the poll, the organization or party that commissioned and paid for the poll, the methodology employed, the sample size, the margin of error, and the fieldwork dates. "In addition, the broadcaster should state that the poll reflects public opinion only at the time that the poll was taken. Opinion polls can have a significant impact on voting patterns, especially where their significance is not adequately understood. Thus, as part of the duty to inform voters, media channels that broadcast the results of opinion polls are obliged to furnish sufficient information for their significance to be understood"¹⁷.

GIFTS, FAVORS AND PREFERENTIAL TREATMENT Journalists should refuse receiving gifts, favors or special treatment from interested parties because it can compromise their impartiality.

¹⁶ OSCE/ODIHR, Council of Europe & EU (2005) European Commission for Democracy through Law (Venice Commission) *Guidelines on Media Analysis during Election Observation Missions*, Strasbourg.

¹⁷ Article 19 (1994) *Guidelines for Election Broadcasting in Transitional Democracies*, available at: <https://www.article19.org/data/files/pdfs/tools/electionbroadcastingtrans.pdf>, accessed on 03.01.2020.

II. ETHICAL PRINCIPLES FOR FAIR AND BALANCED TELEVISED DEBATE WITH POLITICAL OPPONENTS

Mladen Cadikovski

Televised debates present serious challenge during elections. They should reflect the culture of the society and the political system as unit of the society. A televised debate should serve as a platform or particular forum, which, on one side, provides for a balance among the politicians and their goals and messages, and the general public and its right not to be misguided by political manipulation, on the other side.

To that end, the debate should allow opponents to express their positions and attitudes, and the moderator is obliged to lead the debate fairly, not to allow manipulation, sticking to the facts, and pointing out inconsistencies in politicians' statements. That is why the debate as the most impressive media product is dialogue that in certain manner is both thematic and controlled.

Definition and models of televised political debate

The notion of "debate" is not new. Many variations exist from one to another country; however, a debate generally represents an interactive and representative argumentation. It is also recognized as a wider form of argumentation which includes consistency, factual validity and restricted emotional appealing to the audience as important elements of the culture of persuasion.

A debate is a particular way of having a formal competition based on defined rules. It is a basic tool that underpins the democratic processes in a society.

A debate is a clear and focused discussion between two or more opposing parties. It is a focused and thematic dialogue.¹⁸ Moderating a debate requires precise rules for all participants in the debate.

Televised political debate is a format of opposing different opinions of political opponents who convey their objectives, ideas, problems and policies to tackle certain issues that affect the public. The main goal of a televised political debate is to insist that both of the opposing parties are equally and successfully represented. A televised political debate is a forum where leaders or candidates of political parties compete. They respond to questions raised

¹⁸ *Organizing and Producing Televised Candidate Debates: A Guide*, Center for Free Elections and Democracy, available at: <https://www.debatesinternational.org/resource/organizing-and-producing-televised-candidate-debates-guide> accessed on 10.01.2020.

by the moderator or the audience. A debate can be in the form of a "panel "or rivalry, however, in any case, it should enable the viewers to directly compare the views of candidates about raised questions.

To ensure fair organization of a debate, it must be regulated by rules and the time for answering is limited. A debate is conducted based on organized rules within a certain framework with consent among the opponents. Each of the speakers in the debate responds to the moderator questions in the order at the specified length of time, though it must be emphasized that this is not a universal rule that all countries adhere to. In essence, all participants in the debate should speak sufficiently in order to present their points, as well as respond to questions or criticism from the opponent, while observed by a neutral moderator.

Debates have become a global trend which is conducive to the health of democratic societies in various ways, and, among others, viewers are given the possibility to be consistently informed. Debates are often the only time during an electoral campaign that candidates are found at the same time on the same location. It serves as an opportunity for the viewers to make a comparison. In the course of a debate, candidates are given the opportunity to disclose the leadership style and personal qualities of their opponents.

Debates among political opponents are considered an important tool that helps to inform the electorate.

In a deeply divided political environment or countries that undergo severe conflicts, debates should enable respectable representation of political rivals, irrespective of their opposing views. The purpose of the debate is to enable the public to hear the various political offers on which they can further on build their political judgment and views. As a result of the debate, tensions in the electoral context can be reduced.

Hence, the organization of televised debates should always entail constructive and dignified dialogue and intention to clear up any language of misunderstanding in the communication. Televised debate should not turn into a competing arena where candidates use aggressive and discriminatory rhetoric.

There are two prominent models of debates globally, the American and British models. The British model is more widespread in the EU, whereas countries in Latin America prefer the American model. Nevertheless, these are not the only two existing models. There are other models of debates, whereby some are named according to certain personalities, as well as other models which are specific to certain regions in the world.

The British model originates from London at the beginning of the 18th century, which aims to promote the culture of active debate in the society. This model surfaced the public speaking/oratory as a skill. At the same period, the idea about debating also originated in the USA. Those debates mainly focused on the young people.

Political debates in elections became part of the US presidential elections since 1976. Unlike the debates among students and pupils, the format of presidential debates had different format from one to another election. Usually they were more restrictive compared to many traditional formats of debates, and the participants were restricted to ask mutual questions in order to limit the discussion on certain topics in a given timeframe. In the beginning, they were moderated by the League of Women Voters, until the establishment of the Commission on Presidential Debates in 1987.

Televised debate of political opponents should:

- Focus candidates on significant issues;
- Inform voters;
- Help reduce political tensions;
- Promote accountability of opponents;
- Highlight the health of democracy;
- Level the political playing field that will be equal to candidates.

A debate enables the statements, political positions and political promises of candidates to be presented in public.¹⁹ In return, this entails responsibility, and once a candidate becomes office holder, it is the general public, media and civil organizations who can invoke an official statement made by a candidate during a televised debate.

Televised debates of political opponents can be an excellent tool to showcase the level of democracy. They should also contribute to the legitimacy of the electoral processes. Debates contribute to facilitating the exploration of topics of interest to the electorate. Unlike political rallies, debates are platforms where candidates have to present options for problem solving and explain them. In a debate, candidates are given less space to ruin the opponent's position compared to political rallies. Political debates can also be a tool to encourage the candidates to focus on the details and give precise statements.

The process of organizing a TV debate starts by defining the format of the debate. To determine the format of a debate, the following key questions should be carefully analyzed:

- Who is the moderator of the debate?
- How the debaters are being positioned at the stage? Will the opponents sit or stand behind the counter?
- Studio audience, yes or no? If the panellist option is selected, the composition of the audience should be defined, i.e. whether they will be experts or not.

The standing option as a format for debate can be realized through a desk or mini lectern with a microphone installed. In this case, the debaters do not leave their position, even after answering, which should be stated at the presentation of the rules for debate.

The rulebook should state that opponents should not disturb their competitor's physical space, and in the end the moderator may ask them to shake hands or this may be done on their own initiative.

¹⁹ London Free Press, article entitled: *Kielburger: Debates are rare time to see leaders pressed and unscripted*, available at: <https://lfpres.com/opinion/columnists/kielburger-debates-are-rare-time-to-see-leaders-pressed-and-unscripted>, accessed on 05.01.2020.

Sitting debates as a format can be held on a table or chair behind a desk. This option is usually more affordable and more practical than the standing format. Regardless of the format, the position of the opponents is physically defined. Moderator and audience (if any) are physically separate from opponents.

Regarding timeline, the debates should not exceed 2 hours, and the introduction and rules for the debate are presented by the moderator at the outset. The most practiced time format for a debate is 90 minutes. Regarding the duration of the responses, there is specific timeline regulation, usually 90 seconds or two minutes, a timeline each opponent is receiving individually as initial response and 30 seconds as a reply. Measuring the timeline is very important. The audience must have a constant insight on timing for the answers in the debate. This can be accomplished with an on-screen timer and a time-out signal, alerting when the last seconds are spent.

Debates should aim to provide a forum for presentation of topics of discussion, and the language of discussion to be civilized.

The use of certain techniques can improve the quality of debating²⁰. In order to maintain the level of dialogue in a debate, some of the more efficient techniques are:

- **ONLY THE MICROPHONE OF THE CANDIDATE SPEAKING SHOULD BE TURNED ON.** It is not uncommon to see candidates who want to maximally use their time for public appearance, and treat the opponent poorly by using insults, labelling and other rivalry elements that contribute to poor communication. Often, opponents are interrupted while speaking. Also, candidates insist that they all speak at the same time. This contributes to creation of an atmosphere of incomprehension, given that it is impossible to follow the conversation when everyone is speaking at the same time. There is no professional or political context in which this type of communication can be justified. To prevent it, one very useful technique is to turn on only the microphone of the candidate who is speaking.

²⁰ Hippo Reads, article entitled: *Three Simple Ways to Improve Future Presidential Debates*, available at: <http://hipporeads.com/three-simple-ways-to-improve-future-presidential-debates>, accessed on 06.01.2020.

- **THERE SHOULD BE NO LIVE AUDIENCE FOR THE DEBATE.**

Having audience during the debate in a studio can be a good technique. However, experiences have shown that the reactions of the audience may distract the debate. The audience often shows its reaction by cheering, applauding, or otherwise reacting, but it can cause some undesired effects and less objective debate. Therefore, audience is not always welcomed at pre-electoral debates in a studio. If the audience is in the studio, the moderator needs to have the questions from the audience in advance in order to know when and how to include them in the debate.

- **TURNING OFF THE MICROPHONE OF A CANDIDATE ONCE THE TIME IS UP.**

Despite warnings by the moderators to stop talking once the time is up, many candidates would not stop talking. Therefore, the best option is to turn off the microphone once the time is up. Technology allows for some signaling, such as alarm that the time is up. In this way, candidates can focus on the answers and be precise, clear and constructive from the aspect of the allowed time.

Televised political debates are useful tool as they test the ability of the opponents to remain calm under pressure and also provides them with a possibility to articulate their position about certain issue while convincing the viewers. The real purpose of a debate is not political. In essence, the goal of a debate is to show the leadership potential, that is, potential for rapid response, by managing and calming the audience.

At present time, as result of the digital revolution, most of the candidates can represent themselves to the public and their constituencies in a fast and easy way. However, televised debates²¹ serve as a tool that enables the opponents to meet face to face before the viewers. This way they show their skills for active listening, preparedness to improvise, willingness to solve problems and tackle the opponents' crisis.

²¹ Article on Indiaspend, entitled: *What research reveals about the impact of media on voter behaviour*, available at: <https://www.indiaspend.com/what-research-reveals-about-the-impact-of-media-on-voter-behaviour/> accessed on 09.01.2020.

Fundamental principles for organization of debate²²:

- **IMPARTIALITY.** Impartiality is one of the fundamental ethical principles for successful televised political debate, i.e. abilities and skills to maintain neutrality, professionalism and dignified communication.
- **FOCUS ON THE ULTIMATE GOAL.** The purpose of a debate is straightforward — to help voters make a more informed choice. This should be the guiding principle for those running a debate.
- **KEEP IT SIMPLE.** A televised debate requires managing a myriad of issues simultaneously. Therefore, a simplified approach can help minimize last minute complications.
- **NO CANDIDATES, NO DEBATES.** Is a debate a "success" without all candidates? Debate organizers commonly face a scenario where all the invited candidates do not participate. Going forward with debates can play a key role in focusing campaigns on public policy issues and reducing political tensions. These contributions can help build public support as part of electoral processes. As public expectations for debates grow over time, the necessity for participation of candidates in debates also increases.

²² National Democracy Institute (NDI), *Organizing and producing candidate debates*, available at: <https://www.debatesinternational.org/sites/default/files/Organizing%20and%20Producing%20Candidate%20Debates-an%20NDI%20international%20Guide.pdf> access on 04.01.2020.

Which are the benefits from televised debates for candidates and political parties:

- Provide a unique opportunity to speak directly to voters without filtering by the media;
- Receive unparalleled media coverage that most candidates could not afford or may not have access to;
- Reach more voters via a broadcast debate than they would through months of one on one outreach to voters;;
- Connect with independent or undecided voters who are less likely to watch or attend a campaign rally than party faithful;;
- Project a positive image of a transparent election and healthy democracy at home and abroad;
- Level the election playing field where one party dominates access to the media;

The decision about selection of moderator is central to the success of a debate. The role of a moderator, his/her skills and knowledge are crucial for successful debate. Moderators manage the debate and ensure that the candidates follow the mutually agreed upon rules.

In order for finish the debate successfully, before the debate begins, it is necessary to establish the debate rules, format, topics, moderator, scenery, perhaps some questions, order of speakers and producers team.

Local context and recommendations to raise the quality of political debate

Political context

In the local context, political debates originate from the post-independence period when pluralism enabled increased public awareness for the benefits of political debates. The culture of televised debates noted a serious quantity in the late 90-ies, as well as later until 2008.

Golden era

There are still fresh memories about several political debates with the then ruling and oppositional leaders, Branko Crvenskovki and Ljubco Georgievski. The awareness for debating at that time enabled the viewers to see the leaders in a different light. What may be seen as a problem at that time was the low level of political culture in debates. Debaters often used insults and personal discrediting during debates, which left the viewers with a bitter taste.

This type of debates, instead of serving as competition for ideas or concepts, were often reduced to competition of below the belt. However, as ascertained later, that ten-year period in the late 90-ies, with all its flaws, can be called the golden era of televised debates. Even though the level of debating culture was quite low, the fact that the then political elite had no problem to meet the political opponent face-to-face, shows the politicians' awareness about the effects that debates have on the level of democracy.

Killing of debates

Later, when the government changed in 2016, a period started when journalists were pressured and members and officials of the ruling party avoided debates and generally did not take part in debating programs, at all. Usually their representatives boycotted the pre-election debates with the premise that they have high political rating. Their communication with citizens and

voters was one-sided. One can count the number of conducted debates in this period on the fingers of one hand.

Despite the efforts of the television stations to ensure presence of representatives of all political actors in their studios, they rarely succeeded. In fact, the then presidential candidate Gorgje Ivanov did appear several times in the pre-election debate, the first time with the other presidential candidate Ljubomir Frchkovski, and in the second cycle with the candidate Stevo Pendarovski.

The period from 2006 – 2017 was also marked by the fact that the rarely conducted debates, usually on the public broadcaster MTV, were structured in a way that practically "killed" the debate: generally sterile answers offered to quite general questions, with no entitlement to develop a real debate, within a strictly defined framework where the moderator does not allow for cross questioning. From production aspect, the debates were modest, and neither offered any new show approach by using the example of American productions in order to make the debates more interesting.

This partially resulted from lack of funds for richer production of this type of debates; however, on the other side, one could notice the attempts of the then ruling structure to "diminish" the debates which also affected the democracy in the country.

Inflation of debates

The change of government in 2017 resulted in a new situation regarding debates of political opponents. The previous deficit of debates was replaced with surplus of debates of any type. Political debates are shown every day on dozens of television stations. Nearly all television stations, except for TV Sitel, show TV debates on daily basis, with panelists such as politicians, ministers, parliamentarians, ruling party members, opposition. Analysts, experts, professors, political scientists etc. also take part in debating programs.

Unlike previously, one can see various characters with different political affiliation as guests in debating programs. In terms of pre-electoral debates for the 2019 presidential election, there were 9 debating programs between the presidential candidates Stevo Pendarovski, Gordana Siljanovska and Blerim

Reka, which is the highest record ever. Candidates for president or prime minister have never meet so many times in any of the previous election cycles. From aspect of production, these debates, some also with audience in studio, fulfilled the basic standards for quality program.

One could notice that the debates in the first round differed from the debates in the second round in terms of different approach in the first debating programs. Namely, the two presidential candidates refrained from strong personal discrediting and tried to utilize the given opportunity for debate to the maximum. There were also rebuttals or follow-on questions, as something not seen for long time.

Possibly due to the close results in the first election cycle, the second part of debates created a different image, with more irritation, personal insulting and discrediting etc. which is considered to be unacceptable in a civilized political debate.

It seems that the big number of debates caused additional restlessness in candidates and their teams. The problem of having too many debates among two or three candidates is that they were not thematically divided. The situation would have been better if the television stations had mutual agreement about the type of debate – that is, one debate on foreign affairs, another one on internal affairs, a third one on economy, etc. Countries such as USA hold a total of three presidential debates which are thematically divided. In this way, neither the candidates nor the audience are overburdened with unnecessary repetition of the same theses.

Speaking about the quality of debates, there exists a low level of political debating culture, especially with politicians seated in a studio. Such debates often turn into arena for howling down, clattering, even yelling, "interrupting" the other speakers, improper gestures etc. One can rarely see a televised debate with discussion about ideas, concepts and programs without any personal discrediting. This is due to the low level of political culture in the country where a political opponent is seen as a potential target and not as indispensable partner for creative and good policies.

Recommendations to improve the quality of public debates

Is it a good or bad thing to have so many televised debates? One simple answer is that having many debates is much better than no debates at all. However, the level of political debates needs to be increased through continuous education for politicians and journalists, i.e. debate moderators about: rules and format of a debate, selection of moderator and respective topics and questions, design of the whole staging, production and promotion.

It is important to define and present the basic rules for a debate to the candidates in order to raise debaters' awareness about their responsibility to the audience. Topics of interest need to be discussed with candidates several days in advance.

Various techniques can be applied to improve the quality of debates; however, it mainly depends on the team setting the questions and the sub-questions which enable the debaters to enter a substantive debate without personal discrediting. In order to prepare the topics and issues to be debated, it is advisable to do preliminary journalistic research as well as public research.

That is why it is best if the journalistic-production team composes good, key, simple and essential questions. To relax the atmosphere, sometimes it's good to ask non-political questions (on example is which cartoon character would you like to be?)

The moderator must ensure the impartiality, professionalism and respectful communication in a debate. To be knowledgeable about moments when to smile, take up a serious stance and when it is allowed to have the debate running once the time is up. Strict adherence to the rules might kill the debate, and this is when the skills come to the fore.

The focus on the ultimate goal should be maintained at all times by adopting a simple approach to reduce any complications.

In local context, television stations should prepare properly whenever they organize a debate by reaching a mutual agreement that would bring about

better quality of substantive debates. Hence, the number of debates will decrease, but will have a pronounced substance, as one way to tackle the current problem of having too many debates.

The principle of pluralism "*There is no real democracy without real debate*" should be the guiding principle for any journalist or debate moderator. Adherence to this principle is the main characteristic of a quality debate.

III. INTERNATIONAL LEGAL STANDARDS ON FREEDOM OF EXPRESSION AND ELECTIONS

Naser Bislimi, M.A.

International documents are a valuable source of a set of standards related to fundamental human rights as well as to political rights of individuals. A number of fundamental and inter-related human rights refer to media and elections, such as the right to freedom of expression, the right to free elections, to elect and be elected based on the principle of non-discrimination on any ground.

The two elements of the right to freedom of expression and right to elect are articulated in several guiding international and regional treaties and a number of other instruments.

This part refers to a series of international standards which can be geographically distinguished into two types of standards and good practices, that is:

- **Those which are universally adopted, such as the ones adopted by the United Nations, or**
- **Those which are regionally adopted, such as the instruments adopted by regional organizations, for instance, the Council of Europe, European Union and OSCE²³.**

From the perspective of their binding force on states, the normative nature of different standards differs on whether they are legally binding treaties or political commitments.

International treaties mainly deal with a series of steps that member-states should take in order to guarantee the freedom of media during elections. International standards for the role of the media in a democratic society do not impose specific obligations on media, but rather an obligation on governments to ensure that media can perform the function of informing the general public about matters of public interest without any obstacles.

In other words, the governments are responsible to ensure the pluralism of media and encourage the diversity of sources of information. As a general rule, governments cannot restrict media content, even though the broadcasting activity may be subject to national regulations.

²³ European Commission (2016), *Handbook for European Union Election Observation*, Fourth Edition, available at: <https://eeas.europa.eu/sites/eeas/files/compendium-en-n-pdf.pdf>, accessed on 05.01.2020.

Freedom of the media is a condition for a democratic and free society. The media play crucial role in elections, not only as a means to examine governmental activities, but also to ensure that the electorate is provided with all the necessary information to make an informed and democratic choice. Hence, the main underlying principle regarding the role of media in elections is that democracy is impossible without freedom of media and media pluralism.

On the other hand, elections are an example of how human rights are practiced. The citizens' right to vote at periodic elections has been recognized in the international law on human rights. International documents as valuable source of the election law are elaborated in the text below.

United Nations

The fundamental elements of the right to political participation are stipulated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

The right of the people to participate directly in the election of government through free election of its representatives is guaranteed in the Universal Declaration of Human Rights (Article 21) and the International Covenant on Civil and Political Rights (Article 25).

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was unanimously adopted by the General Assembly in 1948. The UDHR is the first elaboration of the obligations concerning the human rights that were specified in the United Nations Charter, and was significant for the development of the political participation as universally recognized human right.

Even though at the time of adoption it was considered a statement of non-binding principles, it further developed into broadly accepted obligations for all members of the international community. The UDHR imposes obligations for

all members of the international community. As a declaration it forms part of the customary international law, or, in other words, it is a non-binding document, but rather "a general practice accepted as law", as defined by the International Court of Justice. Following the adoption of the International Covenant on Civil and Political Rights in 1966, the same provisions were reinforced and given the force of binding and legal effect to all states which ratified it.

Article 19 and Article 21 of the UDHR stipulate the obligations of governments regarding the role of media in elections. Article 19 guarantees the right to freedom of expression and Article 21 guarantees the right to participate in periodic and secret elections.

Article 19 of UDHR reads:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."²⁴.

Article 21 of the Universal Declaration of Human Rights is deemed as the first statement of a human right to political participation, and provides that elections shall be free, fair, and, held periodically and with equal suffrage.

International Covenant on Civil and Political Rights

The international human rights related to political participation as set out in the Universal Declaration of Human Rights were further developed and codified with the International Covenant on Civil and Political Rights, signed in 1966. Following the adoption of the International Covenant on Civil and Political Rights, the same provisions were reinforced and were given the force of binding and enforceable law to the countries that ratified it.

²⁴ United Nations, *Universal Declaration on Human Rights*, available at <https://www.un.org/en/universal-declaration-human-rights/>, accessed on 11.01.2020.

ICCPR is binding for all signatory states according to international law. In January 2020, 173²⁵ states were members of the International Covenant which makes it the most widespread and signed treaty which guarantees the right to free elections and freedom of expression.

Article 19 of ICCPR safeguards the freedom of expression at any time, and Article 25 safeguards the political participation and voting. The two provisions in conjunction impose an obligation to the governments to ensure diversity and pluralism of media during periods of elections.

The obligation from Article 19 of ICCPR which guarantees the freedom of expression and freedom of information, applies only to the obligations of the member-states, and not to the media which should enjoy the respective rights.

Article 19 of ICCPR reads:

„Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice“.²⁶

Article 25 of ICCPR stipulates that every citizen has the right:

“to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.“²⁷

The Human Rights Committee is a United Nations body which issues general comments with interpretation of the provisions from the International Covenant, and some of the most relevant are the General Comment No. 25 on elections and General Comment No. 34 on freedom of opinion and expression.

²⁵ Office of the United Nations High Commissioner for Human Rights (2020), *Status of Ratification Interactive Dashboard*, available at <https://indicators.ohchr.org/>, accessed on 14.01.2020.

²⁶ Office of the United Nations High Commissioner for Human Rights, *International Covenant on Civil and Political Rights*, available at <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>, accessed on 14.01.2020.

²⁷ Ibid.

Council of Europe

In addition to the UN system, regional bodies use a range of mechanisms to implement the regional human rights treaties. The main regional human rights treaty in Europe, that is, the European Convention of Human Rights of the Council of Europe was adopted in 1950 and entails similar combinations of the guarantees for the right to freedom of expression and political participation.

Article 3 of the First Protocol to the European Convention of Human Rights sets forth the guarantee to political participation with similar terms, stipulating that member-states are obligated: "to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature".²⁸ According to the interpretation of the wording of Article 3 of the First Protocol to the ECHR, member-states are obligated to organize elections, instead of enabling the citizens to exercise their right to vote in elections. With regard to the interpretation of Article 3, the European Court of Human Rights in Strasbourg held that this Article, among others, also stipulates the individual right, on the basis of which any individual may file individual appeals against the state.²⁹

Article 10 of ECHR sets forth the guarantee for the right to freedom of expression, which entails the right of political candidates to impart their opinions through the media or the right of the public to access information based on the principle of non-discrimination and without interference of the authorities. Article 10 of ECHR reads:

"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."³⁰

²⁸ Council of Europe (1950), *European Convention on Human Rights*, available at https://www.echr.coe.int/Documents/Convention_ENG.pdf, accessed on 10.01.2020.

²⁹ European Commission (2016), *Handbook for European Union Election Observation*, Fourth Edition, available at <https://eeas.europa.eu/sites/eeas/files/compendium-en-n-pdf.pdf>, accessed on 05.01.2020.

³⁰ Council of Europe (1950), *European Convention on Human Rights*, available at https://www.echr.coe.int/Documents/Convention_ENG.pdf, accessed on 10.01.2020.

Recommendations of the Council of Europe

One of the most important documents which sets forth the standards about media coverage of electoral campaigns is the *Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns*.

This recommendation specifically refers to a wide range of media outlets and applies to any type of elections held in the member-states, including presidential, parliamentary, regional, and if possible, also local elections and referenda.

The term "media" in the recommendation refers to "those responsible for the periodic creation of information and content and its dissemination over which there is editorial responsibility, irrespective of the means and technology used for delivery, which are intended for reception by, and which could have a clear impact on, a significant proportion of the general public."³¹ This definition could, inter alia, include print media, broadcast media, online news-services; however, it does not apply to social media where the biggest part of the electoral communication takes place nowadays.

According to this Recommendation, general principles for media reporting about elections, among others, include³²:

1. **Non-interference by public authorities** – Public authorities should refrain from interfering in the activities of journalists and other media personnel in order to influence elections.
2. **Protection against attacks, intimidation or other types of unlawful pressure on the media** – Public authorities should take appropriate steps for the effective protection of journalists and other media personnel, especially during elections.
3. **Editorial independence** – Regulatory frameworks on media coverage of elections should not interfere in the media content and no political influence is exercised.
4. **Ownership by public authorities** – media which are owned by public authorities, when covering election campaigns, should do so in a fair,

³¹ Council of Europe, *Recommendation CM/Rec(2007)15 of the Committee of Ministers to member states on measures concerning media coverage of election campaigns*, available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d4a3d, accessed on 12.01.2020.

³² Ibid.

balanced and impartial manner, without discriminating against or supporting a specific political party or candidate.

5. **Professional and ethical standards of the media** – All media are encouraged to develop self-regulatory frameworks and incorporate self-regulatory professional and ethical standards regarding their coverage of election campaigns.
6. **Transparency of, and access to, the media** – media ownership should be made known to the public, and political advertising is readily recognizable as such.
7. **The right of reply or equivalent remedies** – any candidate or political party is entitled to an equal right of reply or equivalent remedies under national law or systems.
8. **Opinion polls** – the media should, when disseminating the results of opinion polls, provide the public with sufficient information to make a judgment on the value of the polls. Such information could, in particular:
 - name the entity that commissioned the poll;
 - identify the organization conducting the poll and the methodology employed;
 - indicate the sample and margin of error of the poll; and
 - indicate the date and/or period when the poll was conducted.
9. **"Day of reflection"** – Member states may consider the merits of including a provision in their regulatory frameworks to prohibit the dissemination of partisan electoral messages on the day preceding voting or the so-called "election silence".

European Union

Article 2 of the Treaty on European Union (TEU) sets forth that the principles of freedom, democracy, respect for human rights and the rule of law are fundamental European values. Furthermore, Article 49 of TEU stipulates that states applying for EU membership are required to respect the same principles.

The EU Charter of Fundamental Rights, which was officially proclaimed in December 2000 in Nice enshrines the rights and principles that apply to the citizens of the European Union. Namely, Article 11 refers to the right to freedom of expression, and while Article 39 and 40 of the Charter refer to elections, they also underpin the rights of EU citizens for the European Parliament elections, or to local elections at EU level.

The European Union is conducting an increasing number of election observation missions worldwide, similar to the ODIHR methodology. This practice is both part of the EU foreign policy and EU development cooperation policy which relies on the protection and promotion of human rights and support for democratization.

OSCE

The commitments of the Organization for Security and Cooperation in Europe (OSCE) are regional and politically binding documents which were adopted by consensus by all participating OSCE States, and specifically reflect the freedom to political choice. These commitments are considered to be the most detailed statements about the freedom of political choice and are contained in the three documents adopted by the Conference on Security and Cooperation in Europe (CSCE) such as the 1990 Copenhagen Document, Document of the Moscow Meeting of the Conference from 1991 and the Istanbul Declaration from 1999.

The documents adopted by the Conference on Security and Cooperation in Europe (CSCE) represent a step further in the promotion of human and political rights. In the 1990 Copenhagen Document, participating States declare "that the will of the people is the basis of the authority and legitimacy of all government", and, among others "that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process".³³

³³ Organization for Security and Cooperation in Europe (1990), *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, available at <https://www.osce.org/odihr/elections/14304?download=true>, accessed on 11.01.2020.

The OSCE documents expressly recognize the right of all political groups and individuals to access media, as an aspect of the right to political participation.

Even though the OSCE documents are not treaties and as such did not have a legally binding force on the participating States, they were accepted as political obligations to the participating States.

All OSCE states have also agreed to a number of specific OSCE commitments that deal with relevant issues, such as freedom of expression, freedom of the media and the conduct of democratic elections. The most relevant can be summarized as follows:³⁴

- **Media freedom is one of the basic conditions for a pluralistic and democratic society;**
- **Pluralistic media are essential to a democratic society;**
- Independent and free media are of particular importance in safeguarding human rights and fundamental freedoms;
- **Freedom of expression, including the right to communication and the right of media to collect and disseminate information and opinions, is a fundamental human right;**
- The public should enjoy the freedom to receive and impart information and ideas, without interference by public authorities;
- **Media should enjoy unrestricted access to foreign news and information services;**
- Attacks on or harassment of journalists must be condemned, and those responsible must be held accountable;
- **Access to media should be on a non-discriminatory basis;**
- No legal or administrative obstacles should obstruct access to the media within the electoral process.

³⁴ Organization for Security and Cooperation in Europe ODIHR (2012) *Handbook on Media Monitoring for Election Observation Missions*, available at: <http://www.osce.org/odihr/92057?download=true>, accessed on 09.01.2020.

The OSCE Representative on Freedom of the Media also monitors the relevant developments regarding freedom of expression and freedom of the media in all participating countries and promotes the complete harmonization with OSCE commitments.

The OSCE Representative on Freedom of the Media usually issues statements, where, among others, emphasize the following: respect for the right to freedom of expression, editorial independence, abuse of criminal defamation laws by politicians, governmental abuse of public resources to influence media content, political and commercial interference, safety of journalists and the protection of investigative journalism, the promotion of diversity in access to media, including gender equality, etc.

The Copenhagen Document is most significant for the development of electoral practices in OSCE area. OSCE played a key role in the development of election observation through the OSCE Office for Democratic Institutions and Human Rights (ODIHR), which is the OSCE focal point for all election related matters with a mandate to monitor compliance with the election commitments from the Copenhagen documents in the participating States.

OSCE/ODIHR election observation missions also assess the extent to which the electoral process is conducted in accordance with the national legislation and the extent to which the national legislation supports or prevents the harmonization with international standards for elections. The media analyst from the election observation mission focuses on three main areas: the legal framework for the media, observation of the media landscape and monitoring the media coverage of the election campaign, through quantitative and qualitative analyses.³⁵

³⁵ Ibid.

Restrictions on freedom of expression

Any restrictions on the right to freedom of expression must be prescribed according to international standards, and must undergo the so-called „3-part test“³⁶, that is:

1. **Provided by law:** must have a basis in national law or international law;
2. **Legitimate aim:** restrictions by law must safeguard or promote a legitimate aim according to international law, that is, aimed to "protect one of more of the several interests or values": national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary"³⁷;
3. **Necessary in a democratic society:** restrictions must be proportionate to the aim to protect or promote a legitimate aim.

Right of reply and right of privacy in election reporting

The right of reply to media reports during elections is a well-established principle. This right is grounded both in international law as well as in national constitutional provisions especially with reference to guarantees of freedom of expression and non-discrimination which imply that media shall publish replies by opposition parties or critics to governments. In some countries the right of reply is a right protected by constitution, while in others it is a matter of common accepted international standards and of editorial policy of media.

³⁶ Council of Europe, (2017) *Protecting right to freedom of expression under the European Convention of Human Rights: a handbook for legal practitioners*, available at: <https://rm.coe.int/handbook-freedom-of-expression-eng/1680732814>, accessed on 09.01.2020.

³⁷ Ibid.

According to a Council of Europe Recommendation³⁸ on the right of reply in the new media environment, the right of reply refers not only to the right of reply but also to the case when media refuses to publish the reply or the reply is not satisfactory - the person concerned should have the possibility to legal remedies. However, the scope of the right to reply is larger and it does not refer exclusively to opposition political parties or candidates but "any natural or legal person, irrespective of nationality or residence, should be given a right of reply or an equivalent remedy offering a possibility to react to any information in the media presenting inaccurate facts about him or her and which affect his/her personal rights."³⁹ During election periods, the right of reply is even more important in order to ensure a balance between views and counterinterviews of opposing parties.

In case of a request for reply, the medium concerned which transmitted inaccurate information should make the reply public without prompt delay. The reply by the damaged party should receive the same level of treatment as it was given to the contested information in terms of reach and volume to the general public. As such, the right of reply is necessary in a democratic society and it constitutes a guarantee of the pluralism of information in order to enable the electorate have all the necessary information to make an informed and democratic choice in the context of elections. The right of reply concerns the right of any person to defend oneself from any inaccurate facts or information published about that person, unless it had been fair criticism based on facts and there is a legitimate public interest.

Another relevant dimension when publishing critical information is to consider **the right to privacy**. It is important to keep in mind not to violate the right of the person to privacy and especially in respect to his or her private and family life.⁴⁰

However, from a journalism point of view a relevant consideration is the newsworthiness of the information assuming that the general public has the right to know about the private life of a public figure. Meanwhile, if something tends to be a fact, but it is not newsworthy, for example exposing sexual

³⁸ Council of Europe, *Recommendation Rec(2004)16[1] of the Committee of Ministers to member states on the right of reply in the new media environment*, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805db3b6, accessed on 05.02.2020

³⁹ Ibid.

⁴⁰ European Convention of Human Rights, op.cit., 11.

orientation, such publication may be compromising and it is not protected under freedom of expression laws.

The role of the Public Service Broadcaster's

"Public Service Broadcasting (PSB) is broadcasting made, financed and controlled by the public, for the public. PSBs are neither commercial nor state-owned; they are free from political interference and pressure from commercial forces. Through PSBs, citizens are informed, educated and also entertained. When guaranteed with pluralism, programming diversity, editorial independence, appropriate funding, accountability and transparency, public service broadcasting can serve as a cornerstone of democracy."⁴¹

The UNESCO's definition of public service broadcasting in essence contains the key qualities a public service broadcaster shall fulfil in its public service remit role. The main vision is that it needs to be accountable to the public and in order to serve its democratic role in a society the other most important role is to hold accountable those who were elected by the people. In understanding the role of the PSBs, the other common principles are also crucial, such as:⁴²

- a) **Universality:** geographically public broadcasting must be accessible to all citizens throughout the country, regardless of social status or income;
- b) **Diversity:** its content must reflect the diversity of public interests by offering different types of media productions, from newscasts to entertainment;
- c) **Independence:** it must be free from political and commercial influence, a truly genuine forum where information, ideas and criticism can circulate freely;

⁴¹ "Public Service Broadcasting", webpage of UNESCO, accessed on February 6, 2020. Available at: <http://www.unesco.org/new/en/communication-and-information/media-development/public-service-broadcasting/>.

⁴² Indrajit Banerjee and Kalinga Seneviratne, Public service broadcasting: a best practices sourcebook, (UNESCO: 2005), 15-16.

d) Distinctiveness: public broadcast programming must distinguish from other broadcast services, in terms of their quality and variety of programmes, creating new genres and innovate, without excluding neglected audiences and subjects which may be so by other media.

Due to their unique role in society, public service broadcasters have a special responsibility to follow the rules of fairness, balance and objectivity during an election campaign period. They are usually obliged to ensure equal airtime space to all political contestants with stopwatch precision. Favouring one political party or candidate is considered an illegitimate manipulation of the public and a misuse of public resources.⁴³ Therefore, higher and more rigorous standards from others broadcasters tend to be held by public broadcaster since they belong to citizens and as such the audience need to trust it.

On the other side, unlike the public broadcasters the private broadcasters are commercial enterprises and they should also abide by the highest professional standards of journalism and are usually required to meet certain obligation especially during election campaigns. Private broadcasters are considered to enriching the plurality of ideas in the media ecosystem in general and they are expected to respect the principle of impartiality and non-discrimination against political candidates.

⁴³ Organization for Security and Cooperation in Europe ODIHR (2012) *Handbook on Media Monitoring for Election Observation Missions*, accessed on: <http://www.osce.org/odihr/92057?download=true>, available at: 06.02.2020.

IV. NATIONAL RULES FOR MEDIA COVERAGE OF ELECTORAL PROCESSES

Emilija Janevska, M.A.

It is generally accepted that democratic elections and democracy cannot exist without respect for human rights and fundamental freedoms, in particular the freedom of expression and freedom of media.

In order to take part in the decision-making democratic processes, the general public must necessarily be well-informed.

Media have the key role to provide the necessary information to hold the government accountable, as well as to inform citizens about the offers and policies of candidates, political parties and coalitions and enable them to make an informed decision about their vote during the electoral process.

The opportunity given to citizens to make a choice based on facts is essential for democratic elections.

1) Why rules during electoral processes?

The right to democratic elections and representative government was proclaimed for the first time 70 years ago with the Universal Declaration of Human Rights from 1948.⁴⁴ Since then, a number of international and other documents were dedicated to the principles of administering elections.⁴⁵ They also derive from the case law on human rights, and are also stipulated in many national constitutions, including the Macedonian constitution.

The five basic principles of democratic elections refer to the general, equal, free, secret and direct vote, and that elections must be held periodically.

⁴⁴ United Nations (1948) *Universal Declaration of Human Rights*, available at: https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

⁴⁵ Council of Europe (1950) *Convention for the Protection of Human Rights and Fundamental Freedoms*, available at: https://www.echr.coe.int/Documents/Convention_ENG.pdf
 United Nations (1966) *International Covenant on Civil and Political Rights*, available at: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>
 Organization for Security and Co-operation in Europe (1990) *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, available at: <https://www.osce.org/odihr/elections/14304?download=true>
 European Commission for Democracy through Law-Venice Commission (2002) *Code of Good Practice in Electoral Matters Guidelines and Explanatory Report*, available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e)

"Political pluralism and free and direct democratic elections" are therefore part of the fundamental values of our constitutional order. According to the Constitution, "any citizen who turned 18 years of age is eligible to vote" and "the right to vote is equal, general and direct and exercised at free elections by secret ballot".⁴⁶ The Constitution also specifies the principles of organization of state authorities and local self-government, while the details regarding the election of the authorities are specified in the Electoral Code.⁴⁷

The rules on media coverage of electoral processes aim to safeguard the established principles on the conduct of democratic elections. Media have particularly important role to safeguard two of the principles, that is, the electoral rights are equal and free.

To ensure the equality of the electoral right, all participating candidates, political parties and coalitions in elections need to be provided with equal opportunities, whereas the state, or state authorities in general, to be neutral, impartial and provide equal treatment to everyone.

The requirements for neutrality and impartiality are especially relevant for the media coverage of the electoral campaign. Equality of opportunities is also considered in view of the public financing of participants in elections, other forms of support, paid political advertising, and their overall spending for the electoral campaign.

To ensure that the electoral right is free, voters should be free to hold opinion and freely express their opinions.

This is why, the Electoral Code, in its section on media representation, specifies rules for the manner of informing the citizens and about the paid political advertising for all electoral processes - parliamentary, presidential and local elections.

⁴⁶ Constitution of Republic of Macedonia, 1991 with amendments from 1992, 1998, 2001, 2003, 2005, 2009, 2011 and 2019, available at: <https://www.sobranie.mk/content/Odluki%20USTAV/UstavSRSM.pdf>

⁴⁷ ELECTORAL CODE, PROPOSAL, CONSOLIDATED VERSION (unofficial version, prepared by the Professional Service at the State Election Commission) ("Official Gazette of Republic of North Macedonia", No. 40/06, 136/08, 148/08, 155/08, 163/08, 44/11, 51/11, 54/11, 142/12, 31/13, 34/13, 14/14, 30/14, 196/15, 35/16, 97/16, 99/16, 136/16, 142/16, 67/17, 125/17, 35/18, 99/18, 140/18, 208/18, 27/19, 98/19 and 42/20), available at: <https://www.sec.mk/izboren-zakonik/>

2) To whom and what the rules refer to?

All the rules on media coverage of elections are stipulated in the Electoral Code.

They cover all the media – broadcasting (radio and television), print media and electronic media (Internet portals).

The Agency for Audio and Audiovisual Media Services, as regulatory body with competencies to monitor the broadcasters' electoral representation, can adopt guidelines and instructions, but only for the purposes of clarification, i.e. implementation of provisions from the Electoral Code.⁴⁸

The Methodology for monitoring the electoral media representation by radio and television services during electoral processes, adopted by the Council of the Agency, specifies the ways in which the Agency for Audio and Audiovisual Media Services performs the monitoring and entails all the relevant provisions on media representation during elections for radio and television stations.⁴⁹

In the context of elections, other legal provisions are also relevant, such as the provisions of the Law on Audio and Audiovisual Media Services pertaining to the standards and principles for radio and television activity and the special

⁴⁸ Agency for Audio and Audiovisual Media Services (2019) *Instructions on implementing the provisions of the Electoral Code during campaigns for presidential elections and election of Mayors of Debar, Novo Selo and Ohrid in 2019*, available at: <https://avmu.mk/legislativa/domasna-legislativa/podzakonski-akti/leg-izbori/>

⁴⁹ Agency for Audio and Audiovisual Media Services (2019) *Methodology for monitoring the electoral media presentation on radio and television program services during election processes*, available at: <https://avmu.mk/legislativa/domasna-legislativa/podzakonski-akti/leg-izbori/>

prohibitions for discrimination and incitement of hatred and intolerance;⁵⁰ and the provisions of the Law on Media on the right to reply and correction of published information.⁵¹

The Electoral Code is the most detailed in specifying the media coverage of the elections for the broadcasters: the Public Broadcasting Service, including the Parliamentary Channel that it provides and is under its editorial responsibility, and the commercial broadcasting companies.

There are several provisions that apply for the print and electronic media (Internet portals) which are also legal obligations for radio and television stations. They refer to:

- **Prohibition for media and any related entities to finance or give donations to participants in elections;**
- **Prohibition to broadcast, i.e. publish paid political advertising in the period from the announcement of elections until the start of electoral campaign;**
- **Prohibition to broadcast, i.e. publish publicly financed advertisements throughout the whole electoral process;**
- **Obligations regarding the pricelists for paid political advertising, and their public disclosure and submission to competent institutions;**
- **Obligations to mark and separate the paid political advertising from other content of media, to clearly indicate the purchaser and prohibition for participation of juveniles in paid political advertising;**
- **Obligation to respect the election silence and rules on what constitutes a violation of the election silence;**
- **Rules on publication of opinion poll results related to participants in the election process; and**
- **Obligation to submit reports on advertising space.**

⁵⁰ Law on Audio and Audiovisual Media Services, 2013, *Official Gazette of Republic of Macedonia No. 184/2013*, available at: https://avmu.mk/wp-content/uploads/2017/05/Zakon_za_audio_i_audiovizuelni_mediumski_uslugi_mkd_1.pdf

⁵¹ Law on Media, 2013, *Official Gazette of Republic of Macedonia No.184/2013*, available at: https://avmu.mk/wp-content/uploads/2017/05/Zakon_za_mediumi_mkd.pdf

The provisions refer to various stages or periods of the electoral process. Some provisions apply from the very start of the electoral process, i.e. from the adoption of the act to announce elections by the President of the Assembly. Other provisions apply from the start of the election campaign, which commences 20 days before elections and may not last 24 hours before the Election Day and the Election Day in the first and second round of elections. The election silence is regulated as a specific phase of the electoral process, which starts 24 hours before the Election Day and lasts until 19 hrs. on the Election Day, i.e. closing of polling stations. The electoral process ends with the release of the final election results.

3) Applicable rules as of the announcement of elections

As of the start of the election process, i.e. announcement of elections, several provisions come into effect.

Registration for paid political advertising. To qualify for broadcasting/publication of paid political advertising, broadcasters, print media and electronic media (Internet portals) are obliged to register at the State Election Commission. Registration must be completed within 3 days from the announcement of elections.

To be entered in the Register, media should submit a registration application along with a current balance sheet attached, issued by the Central Registry of the Republic of Macedonia and not older than 30 days. Media that fail to register shall not be entitled to use the funding from the national budget for paid political advertising.

Pricelists. Broadcasters, print media and electronic media (Internet portals) are obliged to set the price lists for paid political advertising for the election participants within five (5) days from announcement of elections.

Price lists are submitted to the competent institutions within the same time frame, i.e. five (5) days. Print media and Internet portals submit the price lists to the State Election Commission, the State Audit Office and the State Commission for Prevention of Corruption. In addition to these institutions,

broadcasters also submit the price lists to the Agency for Audio and Audio-visual Media Services.

In the period until the start of election campaign, media publicly announce the price lists, at least twice, in their programs, i.e. printed editions or Internet pages. Price lists may not be changed until the end of the election process, and prices cannot be higher than the average price for advertising, calculated in the previous five election cycles in all media.

The State Election Commission, until the day of announcement of election, publishes on its website the average and lowest prices for paid political advertising in the previous five election cycles in all media.

Ban for advertising. From the day of announcement of elections until the election process is completed, broadcasters, print media and electronic media (Internet portals) may not broadcast, i.e. publish advertisements financed from the national budget (except for the paid political advertising of election participants, which is financed from the national budget), municipal budgets and the budget of the City of Skopje and budgets of any legal entities entrusted by law to perform public competences. The term "financed" covers the costs for production and publication/broadcasting of advertisements.

From the day of announcement of elections until the start of the election campaign, broadcasters, print media and electronic media (Internet portals) may not broadcast, i.e. publish paid political advertising, except for advertisements and announcements to collect signatures in support of candidature of group of voters.

Advertisements for signature collection. Commercial broadcasting companies may broadcast the advertisements and announcements for collecting signatures in support of candidature of group of voters only in marked advertising blocks within allowed time for advertising (of 12 minutes) per one real hour of aired program according to the Law on Audio and Audiovisual Media Services.

The total time allocated for these advertisements and announcements may not last longer than 6 minutes, in one real hour, where any potential participant in the election campaign may be allocated up to 2 minutes. They should include only general data – the candidate, the place where citizens can deposit

their signatures and the specific time of the day and the client ordering the advertisements/announcements must be clearly indicated.

Recording the program. From the day of announcement of elections until the end of elections, broadcasters record the output signal of their program, and keep the recordings of the overall program for at least 30 days after elections. They submit the recordings, on request of the Agency, within 48 hours at latest.

Media reporting. The Electoral Code and the Law on Audio and Audiovisual Media Services do not specify the rules on media reporting in the period prior to the start of the election campaign. Media follow the professional journalistic standards, and adhere to the principle of objective and impartial presentation of events and equal treatment of diverse views and opinions in order to enable citizens to freely form their opinion on certain events or matters.

4) Applicable rules during the election campaign

As of the start of the election campaign, the legal provisions on the rules for broadcasters regarding all election related programs and paid political advertising of participants in the campaign come into effect.

Principles for media coverage of the election campaign. During the election campaign, radio and television stations that decide to provide media coverage of elections must ensure fair, balanced and impartial coverage in the overall program.

Programs for juvenile audience may not be used for electoral media representation. Regardless of the language in which they broadcast the program according to the licenses for radio or television broadcasting, broadcasters must provide the election campaign participants with equal conditions for access to all forms of electoral media representation.

Broadcasters that air program in the Macedonian language should not inform only about election campaign participants of Macedonian ethnicity, and the broadcasters that air program in any of the languages of other ethnic communities in the country should not provide access to the programs only for the election campaign participants from a specific ethnic community.

Media audience, i.e. citizens or voters are entitled and need to be informed about the overall electoral process and about the views, policies and offers of all campaign participants as they are entitled to equal opportunities in their attempt to reach out to citizens.

The Public Broadcasting Service and commercial broadcasters that air program at national level, should ensure coverage of elections in a format accommodated to the persons with sensory disability.

Forms of electoral media representation - news, special informative programs (interviews, debates, TV/radio duels, current-affairs information programs, current-affairs information programs with documentary approach and thematically - specialized information programs), free political presentation and paid political advertising.

The characteristic of the news and special informative programs is the journalistic processing of the content. The key for the other forms of electoral media representation is that they should not be subject of journalistic processing. Free political representation and paid political advertising should enable the campaign participants to free and direct access to voters, the first one without and the second one with financial compensation.

Only the Public Broadcasting Service and the Parliamentary channel have the obligation to provide free political representation. It can be also provided by commercial broadcasting companies in accordance with the principles for this form of representation.

Free political presentation must be appropriately and visibly marked as "free political presentation" throughout the entire duration of the broadcast.

News and special informative programs are especially important because the citizens mainly use them as source of information about current events. The professional requirement for objective and impartial presentation of events through equal treatment of diverse views and opinions is therefore especially relevant for these types of programs.

News should provide balanced, non-discriminatory and impartial coverage of the campaigns. Special informative programs that enable citizens to make

a direct comparison of candidates and get insight into their capacity and plan to tackle various issues and problems affecting the citizens, should be organized in such way to present diverse views and different political options, with equal treatment of representatives of all political options and allow for free presentation of views, programs and policies.⁵²

For that reason, the Electoral Code sets a requirement for fair, balanced and impartial coverage of elections in the overall program of broadcasters and sets the specific principles to ensure balanced coverage.

How to ensure balanced coverage. Broadcasters ensure the balanced coverage in all forms of electoral media representation, which is in line with their editorial policy, by means of two principles – principle of equality and principle of proportionality. The application of each of the principles depends on the type of electoral process and whether it concerns a national, regional or local broadcaster.

For presidential elections, the principle of equality applies for all presidential candidates both in the first and the second round of elections.

For parliamentary elections, broadcasters follow the principle of proportionality based on the number of confirmed lists of candidates for Members of Parliament.

For local elections, both the principle of equality and principle of proportionality apply. In the media coverage for election of municipal mayor, i.e. Mayor of the City of Skopje, the principle of equality is applied for all mayoral candidates both in the first and second round of elections. For election of members of municipal councils, i.e. members of the Council of the City of Skopje, national and regional broadcasters use the principle of proportionality according to the number of confirmed lists of candidates for members of municipal councils, i.e. members of the Council of the City of Skopje, while local broadcasters apply the principle of equality.

⁵² OSCE/ODIHR (2012) *Handbook On Media Monitoring for Election Observation Missions*, available at: <https://www.osce.org/odihr/92057?download=true>

Broadcasters should ensure balanced coverage and representation of various political views throughout the entire period of campaigning.

It should be noted that balanced coverage is not expected in each of the daily-informative programs, or special informative program, but throughout a specific time period.

The tone the journalists use in their reporting about the attitudes and activities of campaign participants should be neutral. Comments are allowed, however, any comments must be separated from facts and be clearly marked.

Paid political advertising. Principles of proportionality, i.e. equality do not apply to paid political advertising. Election campaign participants conclude advertising agreements with media outlets based on the purpose of their campaign, the targeted population, the knowledge about the influence of particular media, available funding, etc.

Given that paid political advertising can create some unfair advantages for some of the campaign participants, election regulations set limits on the total duration of paid political advertising for each hour of aired program as well as on the air time, i.e. advertising space that can be purchased by various political options (from the ruling parties, oppositional parties, non-parliamentary parties and parties not represented in the parliament) as well by the independent candidates.

Other measures to ensure fair access include requirements, such as: advertising prices are set well in advance, prices are equal for all participants and cannot be changed until the end of campaign and be disproportionately higher than the price for commercial advertising, and also there are legal provisions that limit the total expenditures for election campaign participants.

Therefore, during an election campaign, both in the first and second round of voting, broadcasters can air total of 9 minutes additional time for advertising per real hour of aired program aimed solely for paid political advertising.

That is, up to 4 minutes for the two biggest ruling political parties and the two biggest oppositional parties that won the biggest number of votes at the last parliamentary elections, and one minute for the candidates, for the

parliamentary political parties which do not have their parliamentary group and for the political entities not represented in the parliament.

When there is interest to merge the advertising slots of one political party or candidate in two consecutive real-time hours, the media outlet is required to ensure that the merging of slots is not done for the same political party or same candidate twice in a row and ensure that ruling and opposition political parties are alternately represented.

Paid political advertising must be properly and visibly marked as "paid political advertising" and clearly separated from other media contents and the purchaser is also marked. Juveniles are not allowed to take part in paid political advertising.

Broadcasters cannot broadcast paid political advertising in news, special informative programs, educational and children's programs and during live broadcast from religious, sporting, cultural, entertaining and other type of events. Special informative programs may not be used as form of paid political advertising.

The Electoral Code sets rules on allocating the advertising space in print media and electronic media (Internet portals). Similar to broadcasters, they can allocate up to 45% of the advertising space to the two biggest ruling political parties and the two biggest oppositional parties that won the biggest number of votes at the last parliamentary elections. Up to 10% of the advertising space can be allocated to candidates, to parliamentary political parties which do not have their parliamentary group and political parties not represented in the parliament.

Electoral rules also set limits for these media about the total amounts of paid political advertising. An election participant may not pay an amount higher than 15,000 Euro in MKD equivalent without included VAT to an electronic media outlet (Internet portal) and print media outlet.

The total amount that one election participant can spend for media presentation in all electronic media (Internet portals) and print media, may not be

higher than 25% of the funding provided from the national budget for political advertising.⁵³

Costs of broadcasters, print media and electronic media (Internet portals) for publishing/broadcasting paid political advertising are paid by the State Election Commission within 30 days from the election silence, based on a submitted invoice and other documentation.⁵⁴

State Election Commission campaigns to educate voters about exercising their right to vote and about fair and democratic elections are not considered as paid political advertising. Media whose funding for paid political advertising is provided from the national budget, must publish/broadcast the campaigns free of charge for a duration of 30 seconds every 3 hours. They should be separated from the rest of the program as free of charge program and the client must be clearly marked.

⁵³ Funding provided for paid political advertising from the Budget may not be over the amount of 2 Euro in MKD equivalent without calculated VAT, by registered voter from the total number of registered voters on the territory of the country. Allocation of funds among election participants is based on the matrix 45%+45%+10%.

⁵⁴ Agreements between media outlets and election campaign participants, media plans for paid political advertising and media reports on provided services.

5) General principles/rules throughout the entire electoral process

Several principles and rules from the Electoral Code and media regulations apply throughout the entire electoral process

Independence of journalists and media. To safeguard the journalistic and media independence, all editors, journalists, program hosts and presenters who are engaged to prepare broadcasters' programs, may not take part in pre-election activities of political parties, coalitions, groups of voters and their representatives, i.e. election campaign participants.

If they opt for participation in such activities, their engagement with broadcasters' programs should be suspended from the day of announcement until the end of elections.

Furthermore, broadcasters, print media and electronic media (Internet portals), as well as any related entities, may not, in any way, finance or give donations to any of the political parties.

Media coverage about governmental officials. Given the dual political identity of governmental officials during the election process as they are also political party representatives – election participants, any media reports about their official duties may not be abused for providing them with unfair advantage to other election participants.

Therefore, the Electoral Code stipulates that any media reports about the regular activities of state bodies, bodies of the municipalities and the City of Skopje, state institutions and organizations, legal entities and other entities entrusted by law to perform public competences, may not be used for electoral media representation of any political entity, from the announcement until the end of elections.

Professional principles call for critical approach and equal focus in the media reporting both on the achieved successes and failures in the work of government officials.

Opinion polls. Feature articles that present results from opinion polls related to participants in the election process, may be published not later than five days before Election Day for the first and the second round of voting. Results from opinion polls conducted on the Election Day may not be published before 19:00 hrs., that is before closing the polling stations.

To be able to assess the credibility of an opinion poll, media should provide the citizens with the following information: who commissioned and paid for the opinion poll, who conducted the opinion poll, methodology applied, size and structure of the sample and period when the opinion poll was conducted.

Hate speech. Media are not prohibited to inform about existing hate speech. In fact, voters have the right to be informed about hate speech which is constituent part of the election campaign. However, certain care must be exercised for the potential effect of the messages and efforts must be put to minimize their effect (to provide opposing points of views, disclaimers, proper context clarification).

Journalists and media must not be a source of hate speech and the media content must not invoke/call for threats to the national safety, call for violent destruction of the constitutional order, call for military aggression or armed conflict, incite or spread discrimination, intolerance or hatred based on any grounds.

Right of reply or correction. Any natural or legal person concerned has the right to ask the media for correction or reply to published information. This right is guaranteed by the Constitution, and the rules for its exercise are set in the Law on Media. The reply or correction shall be published without modification and amendments, at the same or appropriate place in the content of the medium, and in the same or appropriate manner as the one in which the information was published.

During the electoral process they must be published in the first next issue, i.e. the first next program of the same kind, immediately upon their receipt. The media is not allowed to post a comment on it together with the reply or correction.

The editor-in-chief of the media may refuse to publish a reply or correction only in few cases specified in the Law. If the editor-in-chief of the media fails to publish

the reply or correction in the manner and within the time limits specified in the law, the natural or legal person concerned have the right to bring a complaint before the competent court. Such litigation is resolved in urgent procedure. Respect for the right to reply or correction by the media is particularly important during elections, in the context of ensuring equal conditions for all campaign participants.

6) Obligations and role of the Public Broadcasting Service

Due to the position and role of the Public Broadcasting Service in the Macedonian media system and society, which are clearly determined in the Law on Audio and Audiovisual Media Services, the Electoral Code stipulates additional rules, besides the already mentioned ones.

The Public Broadcasting Service is required, in cooperation with the State Election Commission, and free of charge, to inform the citizens about the manner and technique of voting and broadcast other information related to the electoral process. The Public Broadcasting Service may not broadcast paid political advertising..

During the election campaign, the Public Broadcasting Service provides equitable access to newscasts by allocating 30% of the time to broadcast information on national and global daily events, 30% of the time on the campaign activities of the ruling political parties, 30% of the time on the campaign activities of the opposition political parties and 10% of the time on the campaign activities of the political parties not represented in the Parliament.

Also, the Public Broadcasting Service is required to:

- **provide regular information about the electoral process for the people with sensory disability, in accessible and available language and format, and in the sign language;**
- **provide free political representation of election process participants in the period from 16:00 to 23:00 hrs., according to the principles of balanced coverage of elections, both in the first and second round of voting;**
- **provide free political representation on the program service aimed for the activities of the parliament, that is, three hours for the campaigns of parliamentary political parties, and one-hour free political representation of the campaigns of submitters of lists not represented in the parliament;**
- **organize debate shows, i.e. hustings with the biggest ruling and oppositional parties and for other participants in the election process, from the announcement of elections until election silence.**

7) Election silence

The election silence should allow the voters to analyze, without pressure, all the information about the political offers that they have received during the campaign and decide about their vote. Therefore, the electoral media representation of all election campaign participants should stop in this period of not even full two days.

Broadcasters continue to report on the election process during the election silence. To avoid violation of the election silence, broadcasters are not allowed to broadcast:

- **any information, photographs, audio and audiovisual materials that are related to or feature election participants;**
- **any forms of media reporting that are openly or covertly in favor of someone's electoral campaign and can impact the voters' decision;**
- **data that reveal the identity of the political entities and/or individuals involved in incidents or other irregularities on Election Day;**

- **statements made by candidates in the election process, election campaign participants, political parties' representatives and public office holders.**

8) After elections

After the elections, as one mechanism to check the spending during the election campaign, all broadcasters, print media and electronic media (Internet portals) are required to submit reports on the advertising space used by each election campaign participant and on the amounts that have been paid or have fallen due for payment on those grounds.

The report is submitted on a template prescribed by the Minister of finance, no later than 15 days after the end of the election campaign, to the Ministry of Finance, State Election Commission, State Audit Office and State Commission for Prevention of Corruption, and is published on their websites.

9) The role of institutions in the electoral process

A number of state and public institutions take part in the administering of elections. They need to be independent and neutral and their decisions are subject of judicial review.

The State Election Commission has the key role in ensuring the legality of preparations and administering of elections and oversees the work of other electoral bodies – municipal election commissions, election commission of the City of Skopje and electoral boards.

The State Audit Office and the State Commission for Prevention of Corruption mainly focus on the implementation of the provisions on financing the electoral campaign.

The Agency for Audio and Audiovisual Media Services, as media regulator, monitors the electoral media representation of the broadcasters from the day when elections are announced until the end of voting on the Election Day, and immediately initiates a misdemeanor proceeding before a competent court for any identified violations (within 48 hrs. after verification).

For any violation of the provisions for balanced media coverage by the Public Broadcasting Service, the Agency files a proposal for initiating a dismissal proceeding for the director of the Public Broadcasting Service.

10) Right of appeal - acting on complaints

The Electoral Code clearly stipulates mechanisms for protecting electoral rights. At any stage of the election process, any voter or list submitter whose right to vote has been violated can file a complaint with the State Election Commission. It also decides on complaints regarding the duration of the election campaign, i.e. early campaigning.

The State Commission for Prevention of Corruption is handling complaints: for extraordinary commences with the construction of infrastructure facilities with public funds; for extraordinary payments of public funds, for alienation of state capital or the signing of collective agreements; for initiating employment procedures or for terminating employment; for holding public events on commencing the construction or commissioning of publicly-owned buildings; as well as the misuse of office space and equipment or office vehicles for election campaign purposes.

It also decides on complaints of attempted pressure and intimidation of voters or members of their families or close relatives as well as on complaints concerning the non-compliance with the electoral campaign financing provisions.

The decisions of the competent institutions as first instance bodies may be appealed to the Administrative Court. The deadlines for action for both, the court and the institutions to act are precisely set.

In addition, election participants have the right to institute proceedings for the protection of their rights before the competent primary court if, during

the election campaign, individual campaigners violate their rights through appearances or propaganda announcements. An appeal may be lodged with the competent court of appeal against the decision of the court of first instance.

Every citizen, every participant in the elections or any other interested party can also submit complaint against the media about the manner of media coverage of the elections or other legal obligations from the day of announcement until the day the elections end.

Complaints about radio and television programs are handled by the Agency for Audio and Audiovisual Media Services, although the Electoral Code does not regulate either its obligation to act upon complaints or the deadlines. It only establishes obligation for the Agency to institute misdemeanour proceedings before the competent court within 48 hours of the finding of violations of the Electoral Code against the broadcaster that violated the provisions.

A complaint/reaction form has been posted on the Agency's website together with all the received complaints as well as the replies that the Agency has sent to the complainants, dating from 2017 onwards. In the website section dedicated to elections, information can be found on received complaints and the given responses for the pre-2017 election processes too⁵⁵. It is emphasized that a complaint may also be filed for the work of the Agency if it violates one's rights or interests by an act or action. Otherwise, the legality of the work of the Agency may be appealed before the Administrative Court.

Complaints about the respect of professional standards in journalistic reporting may also be lodged with the self-regulatory media body in the country - the Council for Media Ethics of Macedonia (CMEM).

Every citizen can also submit a complaint to the Council of Honour, as a self-regulatory body of journalists in Macedonia, which operates within the Association of Journalists of Macedonia (AJM). Its main task is to care and promote the ethical principles, criteria and standards of professional and responsible journalism set out in the Code of Journalists of Macedonia.

⁵⁵ For example, for the 2014 elections, the Agency responded to 17 complaints

V. SUMMARY OF RECOMMENDATIONS OF THE ASSOCIATION OF JOURNALISTS OF MACEDONIA (AJM) IN THE CONTEXT OF THE ELECTORAL CODE

Dragan Sekulovski M.A.

In 2020, on invitation from the Ministry of Justice, the Association of Journalists of Macedonia (AJM) delegated its member to the working group for changes and amendments to the Electoral Code.

As part of this working group, AJM along with the Council of Media Ethics of Macedonia (CMEM) articulated their comments about the Electoral Code and formally submitted them to the Ministry of Justice on 13 November 2020. The comments were built on previous consultations with the bodies of AJM and CMEM, having in mind the local media context and the comparative analysis⁵⁶ that AJM prepared in December 2018 about political advertising in European countries.

Significantly, the principled comments of AJM and CMEM match the comments on the Electoral Code provided by the Agency for Audio and Audio-Visual Media Services and the State Commission for Prevention of Corruption (SCPC). The AJM stands for a principle according to which paid political advertising is prohibited in private media. On the other hand, SCPC in its Action plan to the 2020-2024 National strategy for prevention of corruption and conflict of interest⁵⁷ requests the annulment of budgetary payments for paid political advertising of the political parties in the electoral cycles.

AJM and CMEM share a principled position against the decision for paid political advertising in private media (broadcasters, printed and online media) from the Budget of Republic of North Macedonia. This contributes to the persisting clientelism among political parties and private media, which is then also reflected on the editorial policy of media.

Further, the lease of media space is also problematic because there are no specified criteria on purchasing the media space. It creates the possibility for certain media, which are close to the political parties, to be given priority with the public funds that political parties have at disposal.

The proposed changes in the Electoral Code that were part of the debate in 2020 regarding the rule 4+4+2 as well as the obligation for the use of the sign

⁵⁶ Comparative analysis of the political advertising, AJM, available at: <https://znm.org.mk/wp-content/uploads/2019/01/Belegexemplar-2018-Comparative-Analysis-of-the-political-advertising-MK.pdf>, accessed on 15.01.2020

⁵⁷ SCPC, National strategy 2020-2024, available at: <https://www.dskk.mk/index.php?id=118&L=536>, accessed on 15.01.2020

language in all media, are also problematic and fail to fulfill previous OSCE/ODIHR recommendations. Changes in the rule 4+4+2 further leave room for favoring the big political parties to small political parties and independent candidates. In addition, the obligation for all media to provide content on the electoral campaign in the sign language might be not feasible given the lack of analysis on the number of people who can provide the service and the big number of broadcasters that take part in the campaign.

As part of the consultations for changes and amendments to the Electoral Code, AJM and CMEM request that the section on electronic, i.e. online media is deleted from the wording because both the practice with online media and their involvement in the media campaign has proved to be poor. According to SEC reports on presidential elections that are publically available, significant amounts of funds were invested by a particular political party in specific online media which diminishes the balanced reporting and the independence of the editorial policy in those media outlets. This serves as an additional argument that the current wording of the law with regard to online media leaves room for misconduct both by the political parties and some of the online media.

Under conditions when the wording of the law exists as such, it would be necessary that the political parties commit to invest the funding for the campaign only in the members of the Professional Register of Online Media.⁵⁸ This is for the reason that these members fulfil the obligatory criteria, which is a minimal guarantee that they respect and tend to respect the professional standards from the Code of Ethics of Journalists.

In addition to these principled comments, as part of the consultative process, AJM also submitted specific comments with regard to certain articles of the Electoral Code on the media campaign. Unfortunately, the above state general and the specific recommendations were not considered by the Ministry of Justice and consequence by the Parliament since are not part of the official amendments of the Election Code as of 16th of February 2020.

⁵⁸ Website of the Register of professional online media <https://promedia.mk/main> accessed on 18.01.2020



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