



Permanent Mission of the Republic of Macedonia to the OSCE

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Working Session 1
Freedom of expression, free media and information**

**Statement by the Macedonian Delegation in exercise of its right to reply on
Freedom of expression and freedom of the media**

Mr. /Madame Moderator,

Referring to the views expressed last week in regard of freedom of the media situation in Macedonia, the Macedonian delegation would like to present the following relevant facts:

- Article 16 of the Macedonia Constitution guarantees the freedom of expression, a right which encompasses different components: freedom of personal conviction, conscience, thought and public expression of thought, the freedom of speech, public address, public information and the establishment of institutions for public information, free access to information and the freedom of reception and transmission of information, the right of reply via the mass media, the right to a correction in the mass media, and the right to protect a source of information in the mass media. Censorship is prohibited.
- The freedom of public expression and public information and establishment of the institutions for public information is regulated by certain laws in Macedonia – Law on broadcasting, Law on telecommunications and Law on companies.
- At this moment in Macedonia there is a Public broadcasting service Macedonian Radio and Television (MRT), around 145 commercial broadcasters, and three non-profit broadcasters. During the first 6 months of 2011, the Broadcasting Council issued 3 licenses for broadcast services on a local level (2 licenses for radio broadcasting and 1 for a local cable TV channel).
- The regulatory/self-regulatory authorities, which regulate the broadcasting and the electronic-communications market, the Broadcasting Council, the Commission for Protection of Competition and Journalists' Association, as well as the public broadcaster need additional capacity building in order to improve the implementation of the relevant broadcasting and electronic-communications legislation, improve the media professionalism and properly and effectively enforce the competition rules on the market.
- Amendments to the Law on broadcasting were adopted and the number of the Council members was increased from 9 to 15 towards greater efficiency and higher quality in the work of this body (Out of the 6 new members, 2 are nominated by the President of the Republic, 2 by ZELS, 1 by the Commission for Protection of Competition and 1 by the State Anti-Corruption Commission).
- Compulsory training is ensured on freedom of expression case-law and practice of ECHR for judges and prosecutors that have jurisdiction to deal with defamation

cases. The Academy for training of judges and public prosecutors included such trainings in the Catalogue for obligatory trainings.

- Working group was established by the Government to consider the aspect of decriminalization of the criminal act “defamation”. During 2010 – total of 139 cases submitted on defamation and insult, out of which in 4 cases (2,8 %) fine was imposed and in 2 cases warnings were imposed. 52 cases or 37, 4% were withdrawn or rejected or the procedure ended by release from prosecution and punishment. The procedure is still on-going for 71 cases. During the first 6 months from 2011 – total of 50 cases submitted on defamation and insult, out of which for 1 the procedure has been stopped and 3 were solved otherwise.

Furthermore, we would like to inform that:

- Government-media dialogue was launched with the roundtable “Challenges and Perspectives of the Macedonian Media Sector”, organized by the Journalists’ Association of Macedonia (AJM) and the Secretariat for European Affairs on 14 September 2011.

The following conclusions were adopted at the roundtable:

1. We salute the beginning of the dialogue between the Government and the Journalists’ Association and we make efforts for it to continue in the future.
2. A working group to be established, consisting of the Government and representatives from AJM, which will take care of the implementation of the conclusions from the dialogue.
3. We support the freedom of expression in an atmosphere which is freed from personal assaults and disqualifications.
4. The journalists and editors to fully respect the professional standards and ethics. We agree that self-regulation can make a great contribution to raising the level of respect of the ethical code of journalists.
5. Owners of the media to start a social dialogue with the journalist syndicate.
6. In the future, AJM and the other non-governmental organizations which treat media politics to take part in the process of adopting laws relating to media.
7. Governmental institutions to strengthen the monitoring of the implementation of laws with the purpose of ensuring equal treatment of all media on the market.
8. To open a debate concerning the allocation of budget funds for advertisement of the government and government institutions in the Media
9. To strengthen public service MRTV. This should express the different interests of the Macedonian society.
10. To consider the possibility to prepare a strategy for the development of media in Macedonia.

Please allow us to present some facts on the closure of the A1 TV and the tree newspapers, Koha e Re, Vreme and Špic:

Although freedom of the media is one of the pillars of democracy, it does not mean that a person or a company should be allowed to, under the pretense of free media, be engaged in affairs qualified as tax evasion or money-laundering.

Laws in Macedonia are applied in a non-selective manner, whether it is a media outlet or a company registered for other activities. All market operators should act in accordance with laws, in order to prevent illegitimate competition, as well as to prevent putting those that abide by the laws in an unequal position.

The Ministry of interior, in cooperation with other relevant institutions, has detected a chain of serious criminal offenses in the area of financial crime, by a number of companies registered at the same address as the Trade and Broadcasting Company A1. They were, in accordance with the law, documented and forwarded to Public Prosecutor and the Investigative Judge, while the possible culpability of the suspects should be determined in an unbiased legal procedure. These cases were further processed in accordance with the Law on Criminal Procedure, while the freezing of the accounts has been instituted in order to secure compensation of damages and payment of financial obligations. The subsequent bankruptcy and the revoking of the license for frequency concession, was in accordance with the law and the rules of relevant regulatory institutions.

We would acknowledge the following, on the Audits performed by Public Revenue Office (PRO):

- The Public Revenue Office within its own competences in accordance to the Law on Tax Procedure conducts external audit of taxpayers. The external audit is performed by authorized tax auditors, pursuant to Article 88 of Law on Tax Procedure.
- The control by PRO is being regularly done in national commercial broadcasters. The selection of cases subject to audit is carried out by the General Tax Inspectorate of the Public Revenue, using the automatic system for determining the risk of the taxpayers based on software implemented risk criteria, i.e. the resulting software list of risk taxpayers, arranged according to the received points for risk, based on additional analysis conducted by a special program in DANIS system (audit tools) and the information obtained from third parties as well.
- If during the audit of a taxpayer it is determined that there are business relationships with other taxpayers and needed documentation requires further checks within these taxpayers, then the audit is extended, where audits methods of monitoring the movement documents, goods and money are being used. Also, some of the external audits are performed according to the random choice of taxpayers which are not controlled for a long time.
- In the period from 01.01.2005 to 05.07.2011 external audits were conducted on total 92 taxpayers who are performing radio broadcasting activity (46 televisions and 46 radios).
- Similarly, the Public Revenue Office in the period from 01.01.2005 to 05.07.2011 conducted external audits of taxpayers – printed media.

On the amended Law on broadcasting:

- In the course of July, the Parliament adopted amendments to the Law on Broadcasting Activity introducing higher number of Councillors in the Broadcasting Council.
- Besides improving its efficiency and functionality to overcome the remark in the last EC progress report on the media regulator incapacity referring mainly to the capacities of the regulator to monitor the market effectively, the non-enforcement of the legislation on media ownership and concentration, the division of media on ethnical background, etc. one of the leading intentions in introducing a higher number of

councillors was the advantage of having a diversified institutional representation in the Council.

- The Law on Broadcasting Activity (2005) has envisaged 1.the Macedonian Academy of Science and Art, 2.the Interuniversity Conference, 3.the Journalist's Association and 4.the Parliamentary Committee on Elections and Appointments, as official nominators of the Broadcasting Council's members.
- The last amendments introduced additional key institutions as official nominators which contribute towards higher goals. Similarly to challenges in the media market regulation that all the EU Member state face, also in Macedonia the issue of media ownership structure, the media concentration, prevention of interest collision, legitimate financial sources and development of media market competition remain to be further improved. Thus, the latest amendments introduce the two key regulators in the country in these areas i.e. the Commission for Prevention of Corruption and the Commission for Protection of Competition to be official nominators of the Broadcasting Councillors.
- Also, additional challenge that is faced by all the EU member state is the graduate disappearance of regional and local content in the media. Thus, the Association of Local Self-Government Units got to be another entity to nominate members of the Broadcasting Council.
- It is expected that the greater institutional diversity will lead towards decreasing the possibility of influences in its work, mainly regarding the issuance of licences.
- It is important to mention that the amendments do not violate the basic principles of the CoE Recommendation on the independence and functioning of the regulatory bodies in the area of broadcasting such as the principles of incompatibility of functions, rules of competence and professionalism, rules regulating the responsibilities of the body, additional oversight over the regulator has not been introduced, the provisions regulating the transparency of its work have not been amended.
- On 12.09.2011 the new composition of the Broadcasting council had its first session.
- The Ministry of Transport and Communications is in process of harmonisation of the national legislation with the Audio-visual Media Services Directive, thus preparing the Law on Electronic Media. Inclusive approach in the drafting of this law is undertaken and competent line ministries, the media regulatory body, the stakeholders; all the broadcasters, the telecom operators, the Journalists association, the EU mission to Macedonia, etc. are involved. There is an interactive website created for the purposes of this Law – www.epolicy.mk - where all the relevant background material is posted (like a digital library) and visitors are encouraged to leave their comments and suggestions to the text of the Law. The timetable is to have the TAIEX expert mission at the beginning of October and then have the first draft of the full text. The Law as completed will then be shared with the European Commission and the Council of Europe.

Finally, we would like to inform you that Macedonian Government has already sent an invitation to the RFOM, Madame Dunja Mijatovic to visit the Republic of Macedonia in order to look closely what is the real situation on the ground and to have open and transparent discussions on her previously expressed concerns with all Governmental, non-governmental and other stakeholders. We expect that the RFOM will pay visit to the country at the end of October this year. That would be the best opportunity to demonstrate that Macedonia, as a country with EU candidate status, is in line with OSCE commitments and fully respects the undertaken international obligations.

I thank you.