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Media Reforms Observatory

Final report from the monitoring of the implementation of the reform priorities in the field of media

Reporting period: 1 July 2017 - 30 September 2018

This report has resulted from the monitoring of the implementation of the reform priorities in the field of media within the Media Reforms Observatory project, implemented by Metamorphosis, Agora and PINA. The project is supported by Foundation Open Society - Macedonia (FOSM).

All materials that are product of this project and the carried out monitoring are available at the project's webpage. The website is: mediaobservatorium.mk

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The Media Reforms Observatory project is implemented by Metamorphosis Foundation for Internet and Society in partnership with CA Agora - Center for Promotion of Civic Values and PINA - Investigative Journalism and Analyses Platform.



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Abbreviations

RM - Republic of Macedonia;

EU - European Union;

EC - European Commission;

URP - Urgent reform priorities; reform priorities;

AAAMS - Agency for Audio and Audiovisual Media Services

ECtHR - European Court of Human Rights

AJM - Association of Journalists of Macedonia

Keywords

Media-monitor, media-monitoring, (urgent) reform priorities, Priebe, media, Public Broadcasting Service, government advertising, access to information, defamation.

Note

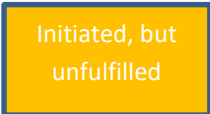
The text is drafted within the Media Reforms Observatory project, implemented by Metamorphosis Foundation for Internet and Society, Agora - Center for Promotion of Civic Values and the Investigative Journalism and Analyses Platform (PINA), with financial support of the Foundation Open Society - Macedonia.

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Executive summary

This final report outlines the general results from the monitoring of the fulfillment of the Urgent Reform Priorities (URP) pertaining to the freedom of expression, in the period from 1 July 2017 to 30 September 2018, within the Media Reforms Observatory Projects, implemented by Metamorphosis Foundation for Internet and Society in partnership with CA Agora - Center for Promotion of Civic Values and Investigative Journalism and Analyses Platform (PINA), with the financial support of the Foundation Open Society - Macedonia.

The monitoring, whose subject were the four pillars of URP, established the following:

- **Public Broadcasting Service** - the new budgetary financing of the MRT proved to be lower than previously as well as unsatisfactory in terms of the needs for normal functioning of the public service. Therefore in July 2018, the Parliament granted additional 3 million euros for the current year with the budget review. The initiated amendments to the media legislation are still pending conclusion in the Parliament. It still hasn't passed the required amendments to the law in question. MRT's program council, composed of former officeholders, reelected the incumbent director of the MRT. Television's program services retained the same format, despite the legal obligation for fourth TV channel. No reform efforts for advancing the work and quality of the program/content offer of the public service have been noted. 
- **Government advertising** - although government advertisements ceased airing on domestic media, the Government still hasn't provided detailed explanations of a number of particularities in order to provide complete transparency and accountability by publishing guidebooks, procedures and protocols. In addition, Article 102 of the Bill on Audio and Audiovisual Media Services provides the possibility for advertising of the Government, government institutions and other public enterprises. 
- **Access to information** - Apart from the measures for opening the public bases to journalists passed by the Government, some ministries provided online access to data on spending, tender contracts and procurements to the wider public. The situation concerning the amendments to the Law on Access to Public Information remains unchanged. Following the call to the wider and expert public for suggestions and amendments, no working groups have been formed under the Ministry of Justice and no activities have been initiated in this regard. The non-functionality of the Commission is additionally hampering the situation. It operates without president and two members, therefore it doesn't have the mandate to make decisions on complaints for access to public information. The Commission is expected to be fully staffed by the end of 2018. 
- **Defamation and insult** - No changes and developments have been noted in this area during the monitoring and reporting period. Despite the reduced number of defamation and insult lawsuits and disputes against journalists that has been registered, courts still face the dilemma whether online media and employees thereof will be treated as media outlets/journalists. Judicial practice shows that 

these subjects and journalists working at this type of media outlets are arbitrary interpreted, something the professional NGO community constantly reacts to. The higher court instances still haven't ruled on the formal administrative and legal reactions. There isn't an initiative for reviewing the Law on Civic Responsibility for Defamation and Insult and the procedural rules as well, so they can be compatible with the case-law of the European Court of Human Rights. The Government hasn't started coordinating with experts on this matter.

The Media Reforms Observatory will continue monitoring the fulfillment of the Urgent Reform Priorities in the upcoming period, by presenting the results in the form of periodic reports, news and investigative stories aiming at greater inclusion of the citizens of the Republic of Macedonia in the democratic processes. All monitoring results are available in Macedonian and Albanian at MediaObservatorium.mk.

Introduction

The political crisis in the Republic of Macedonia reached its climax during 2015 when: intercepted conversations of high governmental functionaries and leaders of political parties were published, lawsuits over illegal publishing of these materials were filed and large number of protests demonstrating revolt caused by the published recordings and content thereof took place. Due to the scale and nature of this crisis, the international factor stepped in, which led the reconciliation and finalization talks. Mediated by the international community, led by the EU and USA, the political parties reached a compromise solution in June 2015 - the Przino Agreement¹, which obligated the signatory political parties to put an end to the crisis as well as to reach systemic solutions and implement reforms in order to fulfill European Commission's recommendations concerning this agreement and also complete the previous processes so the country can meet the conditions for starting European Union and NATO accession talks.

Alongside the signing of the Przino Agreement, the European Commission prepared a special document for Macedonia² containing reform priorities (Urgent Reform Priorities; URP) which have to be fulfilled in the field of rule of law, de-politicization of the public administration, freedom of expression and electoral reforms.

Urgent Reform Priorities (URP) form a document that complements the Report of the Senior Experts' Team led by Reinhard Priebe³. It's divided in five chapters: Rule of law and judiciary; De-politicization of public administration; Electoral reform; Implementation of the recommendations of the Committee of Inquiry into the events of 24 December; Media: freedom of expression.

In compliance with the talks for reaching the Przino Agreement, but explicitly with the reform priorities, reforms in the field of media and freedom of expression are of substantial importance for the development of transparent, democratic and free governance in the country. Concretely, reforms in the field of Media: freedom of expression aim at achieving progress and solving problems in four spheres: Public Broadcasting Service, government advertising, access to information and defamation.

The importance of the reforms in the field of media and freedom of expression was recognized by the incumbent government, which envisioned measures and activities in its Work Program of the Government 2017-2020⁴ as well as the Plan 3-6-9⁵. Pursuant to these documents, the Government committed to build partnership with associations and the civil sector in the media sphere in order to set the media space free from any institutional or personal influence, including the financial dependence.

¹ Przino Agreement – Agreement in Skopje to overcome political crisis, 2 June 2015, Skopje https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_agreement.pdf

² Urgent Reform Priorities – Macedonian translation: https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_mk.pdf. English original: Urgent Reform Priorities for Macedonia, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, June 2015 https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf

³ Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf

⁴ Work Program of the Government of the RM, http://vlada.mk/sites/default/files/programa/2017-2020/Programa_Vlada_RM_Juni_Dekemvri_2017.pdf

⁵ Government of the RM, Plan 3-6-9, <http://vlada.mk/plan-3-6-9>

Media Reforms Observatory project monitored the processes and implementation of the **URP** in the field of media and freedom of expression during the period between 1 July 2017 and 30 June 2018, by publishing periodic reports and journalistic stories about the four areas in the media sphere that have to be reformed so the public will be provided with an insight into the reform processes in these areas deriving from the documents drafted by domestic political stakeholders and the international community with the aim to solve the long-standing political crisis in the RM.

According to the [First periodic report of the project](#)⁶, the reforms are based on the [first](#)⁷ and [second](#)⁸ report of the senior experts' group led by Reinhard Priebe of June 2015 and September 2017, [the Urgent Reform Priorities of EU for Macedonia - URP for Macedonia](#)⁹ and the Przino Agreement¹⁰ of June 2015.

Despite Government's commitments for building partnership with associations and the civil sector in the media sphere, this sphere still isn't free from institutional and personal influence because of Parliament's slow-moving amendment-passing procedure.

During the monitoring of the processes, there weren't any developments in terms of specific amendments to the legal regulation that would actually speed them up and would serve as basis for independence, de-politicization and de-partization of public institutions. Through its representatives in the Parliament of the RM, the ruling coalition didn't pass the required amendments to the Laws¹¹ specified in Priebe's priorities with regard to the sphere of media: freedom of expression. Although there has been a significant progress in some of the four pillars¹² which serve as indicators of the level of freedom of expression, the non-passing of the key legislative amendments hinder the reform process.

The uncertain and unchanged media atmosphere is pointed out [in the report of the European Broadcasting Union \(EBU\)](#)¹³, according to which Macedonian citizens' trust in the media is among the lowest in Europe. Citizens' opinion on the media is also noted in the [report of the American State Department](#), referring to the media situations during 2017, published in April this year.¹⁴ On the other hand, the section on the media in [EC's report](#) on Macedonia's progress published on 17 April 2018¹⁵, says that there has been progress in the freedom of expression compared to the past period.

⁶ Media Reforms Observatory, First periodic report from the monitoring of the implementation of the reform priorities in the field of media http://mediaobservatorium.mk/wp-content/uploads/2017/11/OMR_izveshtaj_1.pdf

⁷ Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news_files/20150619_recommendations_of_the_senior_experts_group.pdf

⁸ The former Yugoslav Republic of Macedonia: Assessment and recommendations of the Senior Experts' Group on systemic Rule of Law issues 2017, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf

⁹ Urgent Reform Priorities – Macedonian translation:

https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_mk.pdf. English original: Urgent Reform Priorities for Macedonia, European Commission, Directorate-General for Neighbourhood and Enlargement Negotiations, June 2015 https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf

¹⁰ Przino Agreement – Agreement in Skopje to overcome political crisis, 2 June 2015, Skopje

https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news_files/20150619_agreement.pdf

¹¹ Law on Audio and Audiovisual Media Services; Law on Free Access to Public Information, Law on Civic Responsibility for Defamation and Insult.

¹² Public Broadcasting Service, government advertising, access to information and defamation

¹³ <http://mediaobservatorium.mk/doverbata-vo-mediumite-vo-makedonija-megu-najnskite-vo-evropa/>

¹⁴ <http://mediaobservatorium.mk/stejt-departmentot-vide-potchineti-mediumi-napadi-vrz-novinari-i-nedoverba-najvnosta/>

¹⁵ <http://mediaobservatorium.mk/ek-ima-napredok-vo-slobodata-na-izrazuvane-namalen-e-pritisokot-vrz-novinarite/>

In addition, it notes reduced pressure on journalists. Advancement of the situation in Macedonia's media sphere is noted by [Reporters Without Borders](#),¹⁶ their report promotes the country from 111 to 109 place pursuant to the World Press Freedom Index.

However, the Macedonian community of journalists complains that even after the shift of power, [journalists are still facing pressure](#)¹⁷. The practice of non-punishing acts of violence against journalists is noted by the Association of Journalists of Macedonia (AJM) in their [Newsletter](#)¹⁸ (April, May, June 2018). Out of 50 cases of attacked journalists who had been performing their professional duties, only one was ended with a convicted attacker this year.

¹⁶ <http://mediaobservatorium.mk/reporteri-bez-granitsi-omrazata-kon-novinarstvoto-e-zakana-za-demokratijata/>

¹⁷ <http://mediaobservatorium.mk/novinarite-se-soochuvaat-so-pritisotsi-i-po-promenata-na-vlasta-2/>

¹⁸ <http://znm.org.mk/wp-content/uploads/2018/07/Билтен-на-Здружението-на-новинарите-на-PM-април-мај-јуни-2018.pdf>

Objectives and methodology of the monitoring

Purpose and methods of the report

First and foremost, this report has the aim to inform the general public or the citizens about the process of implementing the URP in the field of media in a comprehensible manner, adjusted to the wider public and non-expert audience. Additionally, the report serves to inform the other interested parties as well: the media, institutions and civil sector.

The report seeks to provide adequate information on the progress of the implementation of the reforms in the field of media.

It has been drafted in keeping with a specially developed monitoring methodology, which covers a series of activities and measures for data collection and monitoring the reform process. The methodology is based on the implementation of a series of investigative activities, starting from the analysis of the current legal framework and the situation in the field of media and freedom of expression, conducting day-to-day and periodic monitoring as well as investigative analyses, focus group meetings with key informed persons etc.

The desk research is concentrated on data collection and analysis of all relevant documents pertaining to the fulfillment of the URP in the field of media, such as EU's annual reports on Macedonia, Priebe's reports as well as documents and reports of national institutions and organizations on the reform priorities in the media. The data is obtained through various information channels, including the network of collaborators in the civil and media sector as well as the institutions themselves via the Law on Free Access to Public Information.

For better and continuous observation of the situation with the fulfillment of the media reforms, activities for **periodic and day-to-day monitoring** of relevant websites related to the media reforms are being implemented within the project.

The project activities include two **focus group** meetings for gathering information from key informed persons and experts from areas related to the fulfillment of the URP in the civil, private, government sector and academia as well. Knowledge gained from the first focus group meeting, held on 9 October 2017, is incorporated in the monitoring results and provided guidelines for further monitoring activities and journalistic research.

Two public debates, which seek to include the civil society in these processes and spur wider dialogue among policy makers and other stakeholders or the public, will see the presentation of the findings of the monitoring .

The results of the monitoring are published in the form of **periodic (quarterly) analyses and a final analysis**. At project level, this information will be supplemented by **investigative articles**, which will provide the citizens with additional knowledge on the context, previous state of affairs that have led to the current situation as well as obligations assumed by the institutions in the RM to fulfill the reform priorities.

The monitoring is conducted by project's multidisciplinary team, composed of members of the three partner organizations with complementary expertise (journalists, media experts and lawyers).

According to the Methodology, the investigative activities specify four levels of fulfillment of the obligations emanating from the URP in the field of Media: freedom of expression. The four levels are:

1. Completely unfulfilled - nothing specific has been initiated.
2. Initiated, but unfulfilled - activities for amending the legislation have been initiated.

3. Partially fulfilled - legislative amendments have been passed, but are not being implemented.
4. Completely fulfilled - the reforms are implemented in full.

For better communication with the wider public when displaying the levels visually, specific color is used for each of the specified levels of fulfillment (red, orange, yellow and green).

1.	Completely unfulfilled – nothing specific has been initiated.	Red
2.	Initiated, but unfulfilled – activities for amending the legislation have been initiated.	Orange
3.	Partially fulfilled - legislative amendments have been passed, but are not being implemented.	Yellow
4.	Completely fulfilled - the reforms are implemented in full.	Green

Figure 1: Levels of fulfillment and colors

The situation monitoring activities are implemented by project's multidisciplinary team, composed of members of the three partner organizations with complementary expertise (journalists, media experts and lawyers).

Research

The reform priorities in the Media: freedom of expression sphere envision a series of specific measures and activities that have to be taken by relevant institutions in the country so progress in the democratization and good governance can be reached. These measures and activities are divided into four pillars of the reform implementation process in the field of media: Public Broadcasting Service, government advertising, access to information and defamation. There are additional activities within each pillar, which contribute to the fulfillment of main pillar's objective. According to the URP, reforms that have to be fulfilled in this sphere are the following:

Public Broadcasting Service: to obtain visible evidence on reforms in the Public Broadcasting Service in terms of the operational policy, organization, education and editorship and the lack of political independence, lack of balanced reporting as well as provision of informative high-quality content.

Government advertising: to establish strict rules for government advertising based on transparent, objective and non-discriminatory criteria; provide complete transparency of the government advertising and develop a mechanism for free ads aired by the public services which are of true public interest.

Access to information: to address the main impediments faced by journalists when obtaining public information.

Defamation: Reducing the number of defamation cases by reviewing the legislation, procedural rules, support and promotion of greater use of self-regulation as an alternative for court acting and guaranteeing and implementing an adequate self-limitation on the part of politicians and public officials so defamation procedure, in compliance with ECtHR's principles, won't be initiated.

Reports of the Independent Senior Experts' Group led by R. Priebe

The monitoring of the implementation of the reform priority is regularly conducted by the European Commission, i.e. the independent senior experts' group, formed in order to analyze the situation and give recommendations on systemic rule of law issues relating to the communications interception revealed in Spring 2015.

The first report of the senior experts' group, published in June 2015, pinpointed the key drawbacks and problems in country's media sphere and provided recommendations to solve them immediately after the reforms in the government and institutions have been implemented. The key problems that have been pinpointed are related to the political and financial influence over the Public Broadcasting Service and other media outlets, government advertising, access to public information and defamation.

In September 2017, the Senior Experts' Group prepared the new report, which estimated the progress in the addressing of their previous findings and recommendations provided in the first report of 2015. This report reflected greatly on the previous problems and challenges in the media sphere and freedom of expression and noted low or limited degree of fulfillment of the reforms. Taking this into account, the recommendations provided in the first report of 2015 remain and new were given as well. The new recommendations contained in the 2017 report are related to the drafting of a government strategy on fulfillment of the media reforms, based on adequate analysis and planning in a transparent and participative manner with representatives of all relevant stakeholders from the public and private sector. The improvement of media outlets' capacities as well as the strengthening of their role for accountable state, investigative journalism and so on, form part of the recommendations. Other recommendations refer to enhancing the functioning of the Macedonian Radio Television (MRT) in terms of its independence and effective management and work as well as transparency and accountability toward all stakeholders. Additionally, the financing situation of the Agency for Audio and Audiovisual Services ought to be clarified, so it and its Council may become independent.

The implementation of the URP is also monitored by other international institutions and organizations as well as the civil sector and media in Macedonia. Generally, their findings and conclusions are in line with the stated situation and the problems and challenges identified by Priebe's reports.

On the other hand, the Government of the Republic of Macedonia and other institutions report about their activities for fulfillment of the reform priorities. By analyzing their information and documents in the past period, it can be noticed that the implementation of certain reforms is ongoing.

Apart from the two reports of Reinhard Priebe, articles of [Meta](#) News Agency, stories of [PINA](#), monitoring reports of [AAAMS](#), both regular and optional, as well as findings from the focus group meetings attended by media professionals for the purposes of this project were used during the drafting of the monitoring report.

Key findings of the monitoring

1. Public Broadcasting Service

Initiated, but
unfulfilled

Clear recommendations are provided within URP's first pillar in the field of media:

"to obtain visible evidence on current reforms in the Public Broadcasting Service in terms of the operational policy, organization, education and editorship directed at heeding the regular criticism from the past regarding the lack of political independence, lack of balanced reporting as well as provision of informative high-quality content".

- 1.1. Reforms in the Public Broadcasting Service are still imperceptible both for the expert and the general public. Other than the abolishment of the broadcasting fee¹⁹, paid by the citizens, there weren't any significant changes concerning the promotion of functions, obligations and role the Public Broadcasting Service - MRT is supposed to have. [The monitoring and expert analyses](#)²⁰ conducted by the civil sector pinpointed a lack of transparency during operations of MRT's managerial bodies, and information on their work, the type of documents and policies they have made within their competences doesn't exist.

Albeit the manner of financing the MRT has been changed, it doesn't guarantee program advancement or financial consolidation. Certain professional associations deemed the Government-planned budget insufficient for unimpeded functioning of the MRT, which was proven by the analyses on the budget of the RM as well as the analyses on MRT's financial operations and the [Budget analysis](#)²¹ for 2017, which shows that if the projections remain as is, MRT's will have 5 to 7 million euros less in the budget. On the other hand, [the MRT announced](#)²² that the debt problem would have been solved if MRT didn't have receivables in the amount of 34 million euros toward the PRO.

The still prevalent politicization and bias of the public service is pointed out by AAAMS' monitoring reports²³ on the media reporting during the local elections in 2017. In two reports, the AAAMS deems the Public Broadcasting Service misbalanced. In its [4. ten-day report](#)²⁴ on the First program service, AAAMS says: "...non-critical selection of stances of the biggest opposition party in certain instances (for example, VMRO-DPMNE's reactions on the same topic against

¹⁹ Bill on amending the Law on Audio and Audiovisual Media Services, in a summary proceeding

<http://www.sobranie.mk/materialdetails.nsp?materialId=d9c2f24d-4522-4e39-aab6-0c9bf85ebbd9>

²⁰ <http://meta.mk/aavmu-mora-da-bide-vistinski-nositel-na-politiki-za-mediumite-ne-samo-regulator/>

²¹ T. Blazevski. (20 September 2017) Counter-spin: MRT will have 5 to 7 million euros less in the budget! Truthmeter.

<http://vistinomer.mk/kontraspin-mrt-ke-ima-pomal-budhet-za-5-do-7-milioni-evra/>

²² Meta.mk (03 November 2017) MRT: We owe a lot, but PRO owes us 34 million euros. <http://meta.mk/mrt-nie-dolzime-mnogu-ama-i-ujp-ni-dolzhi-34-milioni-evra/>

²³ AAAMS. Ten-day reports from the monitoring of the media reporting on the local elections in 2017.

<http://avmu.mk/%d0%b4%d0%b5%d1%81%d0%b5%d1%82%d0%b4%d0%bd%d0%b5%d0%b2%d0%bd%d0%b8-%d0%b8%d0%b7%d0%b2%d0%b5%d1%88%d1%82%d0%b0%d0%b8-%d0%be%d0%b4-%d0%bc%d0%be%d0%bd%d0%b8%d1%82%d0%be%d1%80%d0%b8%d0%bd%d0%b3%d0%be/>

²⁴ AAAMS. Local elections 2017: Monitoring report on the media reporting for the period from 6 to 15 September 2017 <http://avmu.mk/wp-content/uploads/2017/09/lzvestaj-za-period-od-6-do-15-septemvri-2017.pdf>

Rashkovski - Government's Secretary General, were aired four times). By doing so, MTV1 didn't adhere to its rules on media coverage on the local elections, according to which it will provide balanced news reporting on the activities of political parties in power and in opposition, represented in the Parliament of the Republic of Macedonia, before the start of the electoral campaign..." In its [5. ten-day report](#)²⁵, AAAMS found that provisions of the Electoral Code have been violated, i.e. statements of public officeholder during the pre-election silence during the local elections runoff had been aired.

MRT's fourth TV channel isn't airing yet, although legislative amendments were passed two years ago. This channel is supposed to air only in Albanian, while programs in the languages of other ethnic communities will be broadcasted on the existing channel. This program set-up as well as public broadcaster's staff situation were discussed [within the MRT](#)²⁶ and at the [debate](#)²⁷ on the situation in the MRT, organized by OSCE in November last year.

Additional negative reactions were prompted by the decision of MRT's Program Council [to reelect](#)²⁸ the incumbent director out of 13 candidates who applied for the position in an open competition published in January 2018. The [reactions of the expert public](#)²⁹ resulted from the controversies during his previous term.

In July 2018, the reduced funds for the MRT were increased for 3 million euros, [following the budget review in the Parliament](#).³⁰

[The annual work](#)³¹ [report on the MRT](#) for 2017 was delivered to the Parliament of the RM on 30 March 2018 and was considered and adopted in [a plenary session](#) in August 2018.³²

The same parliamentary dynamics ensued after the [annual report](#)³³ for 2017 was submitted by the Agency for Audio and Audiovisual Media Services. It was passed in [a session](#) of the Committee on Transport, Communications and Environment³⁴, which delivered a report to the Parliament for further procedure. The annual work report on the AAAMS for 2017 was passed in a plenary session in the Parliament on 23 July 2018.

1.2. The reform hiatus in the Public Broadcasting Service occurred at almost the same time with the hiatus in the amendments and advancement of the media regulation.

Following a series of [debates and consultations](#)³⁵ in late February 2018, [the Government](#)³⁶ adopted the Bill on Audio and Audiovisual Media Services, later delivered to the Parliament for

²⁵ AAAMS. Local elections 2017: Monitoring report on the media reporting for the period from 16 to 24 September 2017. <http://avmu.mk/wp-content/uploads/2017/09/Izvestaj-od-monitoring-za-lokalni-izbori-2017-za-period-od-16-do-24-septemvri.pdf>

²⁶ M. Atanasoska-Manasieva (30 November 2017) MTV is on life support, has weak video signal and the secondary audio programming is nowhere near implementation, Media Reforms Observatory. <http://mediaobservatorium.mk/mtv-dishe-na-stari-aparati-ima-slab-videosignal-a-za-vtoro-audio-nema-aber/>

²⁷ Media Reforms Observatory (27 November 2017), MRT's programs in languages of the ethnicities barely make ends meet, <http://mediaobservatorium.mk/programite-na-mrt-na-jazitsite-na-natsionalnostite-edvaj-sostavuvaat-kraj-so-kraj/>

²⁸ <http://mediaobservatorium.mk/marjan-tsvetkovski-reizbran-za-direktor-na-mrtи-ten-od-13-prijaveni-kandidati/>

²⁹ <http://mediaobservatorium.mk/znm-reizborot-na-tsvetkovski-za-direktor-ne-odi-vo-prilog-na-reformite-na-mrt/>

³⁰ <http://meta.mk/staro-noviot-menadhment-na-mrt-dobi-infuzija-od-3-milioni-evra-infografik/>

³¹ <http://www.sobranie.mk/materialdetails.nspx?materialId=a5cac699-06a1-46bb-ac76-5b135b3766e8>

³² <http://www.sobranie.mk/materialdetails.nspx?materialId=72ca896a-dfae-4d03-80e1-68a7e3c56b16>

³³ <http://www.sobranie.mk/materialdetails.nspx?materialId=967e5063-679b-4d12-8c2d-efa93f419d98>

³⁴ <http://www.sobranie.mk/materialdetails.nspx?materialId=967e5063-679b-4d12-8c2d-efa93f419d98>

³⁵ <http://mediaobservatorium.mk/predlog-zakonot-za-avmu-povtorno-na-meta-na-ekspertite-i-felata/>

³⁶ <http://mediaobservatorium.mk/vladata-go-usvoi-predlog-zakonot-za-audio-i-audiovizuelni-mediumski-uslugi/>

discussion and passing. During March 2018, [the Bill](#)³⁷ was [discussed](#)³⁸ by several parliamentary committees in the Parliament. The dynamics of consideration of the Law on the AAAMS demonstrated by the parliamentary bodies indicated that the passing procedure will last longer than expected. The head of the corresponding Ministry, Damjan Manchevski [made a statement on these indications](#) blaming the opposition for filibustering the processes.³⁹ On the other hand, the opposition VMRO-DPMNE asked [the exclusion of the public](#)⁴⁰ from the discussion on candidates for membership in the AAAMS' Commission and MRT's Program Council. In addition, the opposition party disagrees with the proposed legislative provision saying that members of managing bodies should be [mandatorily proposed by the civil sector](#)⁴¹.

The reform endeavors were hampered, the legislative amendments didn't pass the parliamentary procedure despite [the reactions](#)⁴² and [statements](#)⁴³ of the civil sector, expert NGO-community, all of that with aim to speed up the parliamentary processes when passing amendments and later application thereof.

³⁷ <http://www.sobranie.mk/materialdetails.nsp?materialId=e71f01ff-4bd8-428a-b45e-ccf4687b774a> (link last saved on 30.9.2018 at 16:50)

³⁸ <http://mediaobservatorium.mk/so-serija-zabeleshki-zakonot-za-avmu-slednata-nedela-odi-na-plenarka-vo-sobranieto/>

³⁹ <http://mediaobservatorium.mk/manchevski-opozitsijata-chetiri-mesetsi-gi-kochi-mediumskite-zakoni/>

⁴⁰ <http://mediaobservatorium.mk/vmro-dpmne-ne-saka-javna-rasprava-za-kandidatite-za-aavmu-i-sovetot-na-mrt/>

⁴¹ <http://mediaobservatorium.mk/vmro-dpmne-bara-nevladinite-da-ne-izdavaat-preporaki-za-chlenovite-na-sovetite-na-aavmu-i-mrt/>

⁴² <http://mediaobservatorium.mk/znm-bara-da-se-prekine-mandatot-na-chlenovi-na-sovetite-na-mrt-i-na-aavmu/>

⁴³ <http://mediaobservatorium.mk/reformite-vo-mediumskata-sfera-mora-da-prodolzhat-poseopfatno/>

2. Government advertising

Partially fulfilled

According to the URP, RM ought to fulfill the following in the area of "government advertising":

- "to establish strict rules for government advertising based on transparent, objective and non-discriminatory criteria;
- to provide complete transparency of the government advertising (not just in terms of spending public funds, but also in terms of receivers and content);
- to develop a mechanism for free ads aired by the public service which are of true public interest".

Following [Government's abolishment](#)⁴⁴ of all of its advertisements in the media as of 22 August 2017, no other documents stipulating precise rules for eventual government advertising on social media, pointed out as an exception, have been passed and published. In addition, it remains unknown whether a document that establishes criteria of defining the term public interest and the respective public interest topics, which will be communicated with the citizens through free ads on the Public Broadcasting Service, is being or has been drafted.

The Government still hasn't provided detailed explanation of several particularities in this respect and numerous questions, that are being imposed, remained unanswered:

- 1.1. Is the Government going to pay for ads when communicating with the public through the Public Service MRT?
- 1.2. Is the Government planning on paying for production of videos or posts, when informing about communication with the public on social media, which will be posted as sponsored (promoted) posts on Facebook, Twitter and other social media?
- 1.3. How is the Government going to use its HR department and employees thereof for its proactive role during the communication with the public via Facebook, Twitter and other social media?

The possibility for advertising of the Government, government institutions and other public enterprises is laid down [in Article 102](#)⁴⁵ of the new Bill on Amending the Law on Audio and Audiovisual Media Services, which reads that if the aforesaid institutions have the funds for communicating with the public "...they are obligated to spend them in a non-discriminatory, objective and transparent manner through a procedure compliant with the Law on Public Procurements...".

Although Facebook and Twitter remain the main communication channel of the government institutions and individuals, [the Government announced the launch of a new additional channel](#)⁴⁶ for communication with and informing the public.

[However, Government's spokesperson clarified](#)⁴⁷ that approximately 250 euros have been spent on sponsored (promoted) posts on Facebook and Twitter.

During the monitoring and reporting period (1 July 2017 - 30 September 2018) no videos, ads and other paid type of communication with the public through the public service for government activities promotion was noticed.

Partially fulfilled

⁴⁴ <http://vlada.mk/node/13272> (link last saved on 30.9.2018 at 16:50)

⁴⁵ <http://www.sobranie.mk/materialdetails.nsp?materialId=e71f01ff-4bd8-428a-b45e-ccf4687b774a>

⁴⁶ <http://meta.mk/vladata-otvora-kanal-za-onlajn-komunikatsija-so-graganite-nema-da-dava-pari-za-reklami/>

⁴⁷ <http://mediaobservatorium.mk/vladata-platila-samo-250-evra-za-reklami-na-fejsbuk-i-tviter/>

3. Access to information

The area of access to public information within the URP needs:

"to address the main impediments faced by journalists when obtaining public information (for instance, relevant bodies' failure to respond to a great deal of information requests, unjustified and excessive filing documents as "classified", when they actually aren't)".

Following Government's decisions and the series of measures for enhancement of the access to public information: open Internet access to [the government sessions](#)⁴⁸; free access to the Central Registry and the Real Estate Cadastre Agency for journalists, still the wider expert public expected advancement and more detailed explanation of certain matters during the monitoring period (1 July 2017 - 30 September 2018)

The inconsistencies regarding the freelance journalists who are without main newsroom remain and it's still unknown whether this free access includes them, the academia, NGOs and other research institutions too. Additionally, it's unknown whether an authorised person with the power to reject a request for free access to information submitted by the two institutions has been appointed and what are the conditions for the institution holder of the public information to reject such request.

The access to public information was talked at a [discussion](#)⁴⁹ on the need for amending the Law on Access to Public Information, organized by the Ministry of Justice, which saw the remarks and data in favor of the need for amending the current law. To that end, the Government announced amendment to the Law on Free Access to Public Information, which was requested multiple times by civil society organizations and media workers in the past period. With that goal, the Ministry of Information Society and Administration, the Ministry of Justice and the Minister without portfolio in charge of communications, accountability and transparency [addressed the public](#)⁵⁰ in writing and urged the citizens, media and civil society organizations to give proposals and suggestions for amending the Law on Access to Public Information.

Despite the announced amendments to the Law, the activities remained in early preparation stage. According to what [the Ministry of Justice reported in February](#), the working groups that are supposed to amend the current Law were still in formation phase.

During the monitoring period, the civil society organizations emphasized the necessity for amending the current Law on Access to Public Information on multiple occasions. These requests were [made public](#)⁵¹ through the means of public informing.

The main challenges noted by the civil society organizations and experts in this field are summarized in the ["Proposals for amending the Law on Free Access to Public Information and Improvement of its Application"](#)⁵² policy brief, published by FOSM, and they remain unanswered because the amendments to the Law on Access to Public Information are not being worked on.

⁴⁸ Government of the RM, <http://vlada.mk/sednici>

⁴⁹ Media Reforms Observatory, (19 December 2017) <http://mediaobservatorium.mk/administratsijata-najmalku-odgovara-na-novinarskite-prashana/>

⁵⁰ Media Reforms Observatory (20 December 2017) <http://mediaobservatorium.mk/povik-za-predlozi-i-sugestii-za-noviot-zakon-za-sloboden-pristap-do-informatsii/>

⁵¹ <https://www.24.mk/vladata-i-zasegnatite-strani-go-podgotvuvaat-noviot-zakon-za-sloboden-pristap-do-informacii>

⁵² "Proposals for amending the Law on Free Access to Public Information and Improvement of its Application" (12 January 2018) <http://fosm.mk/CMS/Files/Documents/Policy%20Brief%2012-01-2018.pdf>

Up until the finalization of this report (30 September 2018), the Ministry of Justice didn't issue new information on the process of drafting the amendments to the current Law.

Despite all the challenges the citizens are facing when accessing public information, an additional hurdle is the current non-functionality of the [Commission for Protection of the Right to Free Access to Public Information](#). Namely, after the [resignation](#) of the Commission's president, Slamkov⁵³, and the two-member shortage, this body cannot rule on complaints for access to public information filed by the citizens. Although the Parliament annulled the first open competition⁵⁴ for election of a president and two members, [another decision on open competition](#) for election of a president and two members⁵⁵ was made on 29 September 2018. Despite the announced sessions in which they had to be elected, there wasn't information on the election and completion of the Commission up until the finalization of this report (30 September 2018). Commission's Secretariat informed that the received complaints have been processed, but the Commission, which has the mandate to rule thereon, has to be fully staffed first.

Albeit the legislative amendments are not passed, several state institutions advanced their transparency and accountability through the open online data made available to the citizens.

In early January, the Ministry of Finance said that the [Electronic Public Procurement System \(ESJ\)](#)⁵⁶ will feature the awarded contracts for citizens' convenience. The contracts ought to be available within the notifications for the concluded procurement. The Government said that this measure has been passed in order to prevent attempted corruption when concluding contracts between state bodies and companies.

In addition, the Ministry of Finance said that it has been working on ["Open finances" website, in partnership with the International Republican Institute \(IRI\), which is supposed to be launched in late 2018](#)⁵⁷. This website is said to contain all the data on the spending citizens' money, the purpose of the spending as well as the recipient of the money paid by an institution and the purpose as well. The Ministry of Finance notified that Slovenian and Albanian experience will be used on this project, while the available data would be updated biweekly.

The Ministry of Defence informs⁵⁸ it will make all non-classified procurements and expenditures public. Salary brackets of Ministry's employees, services and public procurements are publicly available at a [designated page](#) on this institution's website.

The sole activity in this regard was the announced closer cooperation, defined with a signed memorandum, between the [Association of Journalists of Macedonia and the Commission for Protection of the Right to Free Access to Public Information](#)⁵⁹. By doing so, the communication between journalists on the one hand and public institutions on the other is expected to be more efficient and faster when it comes to obtaining information the journalists need.

⁵³ <https://novatv.mk/ostavka-na-slamkov-od-komisijata-za-sloboden-pristap-do-informatsii/>

⁵⁴ The first open competition for election and appointment of a president and two members of the Commission was annulled on 27 August 2018

⁵⁵ <http://www.sobranie.mk/materialdetails.nspcx?materialId=ba4ad232-ca03-4d45-9995-c87b48cd3ae2>

⁵⁶ <https://e-nabavki.gov.mk/PublicAccess/Home.aspx#/home>

⁵⁷ <http://meta.mk/na-portalot-otvoreni-finansii-ke-se-sledi-trosheneto-na-parite-na-graganite/>

⁵⁸ <http://mediaobservatorium.mk/ministerstvoto-za-odbrana-se-otvora-kon-javnosta-i-ke-objavuva-se-shto-ne-e-tajno/>

⁵⁹ <http://mediaobservatorium.mk/znm-dogovori-sorabotka-za-polesen-pristap-na-novinarite-do-informatsii-od-javen-karakter/>

4. Defamation

Completely
unfulfilled

In the fourth area - defamation - the reform priorities for media ought:

"...to reduce the number of defamation cases reaching the courts that has to be achieved by: reviewing the legislation in order to remove cases like "honor", "dignity" and "insult" that are opened following the legal definition of insult and are outside the scope of insult in terms of article 10 of the ECHR; to review the procedural rules for excluding small cases in exchange of increased mediation when solving them; support and promotion of greater use of self-regulation as court acting alternative; guaranteeing and implementing an adequate self-limitation on the part of politicians and officials so a defamation procedure won't be initiated, in accordance with ECtHR's principles".

Priebe's report of 2017⁶⁰, which follows his 2015 report⁶¹, notes the reduced number of defamation cases and this part of the reform package is not deemed as the most concerning.

During the URP monitoring and reporting period (1 July 2017 - 30 September 2018) there weren't any changes since the publication of the [First periodic report](#)⁶², [Second periodic report](#)⁶³ and the [Third periodic report](#)⁶⁴ of the Media Reforms Observatory that would point out to advancement of the situation concerning the defamation and insult lawsuits against journalists and media workers. There aren't even announcements on amending the Law on Civic Responsibility for Defamation and Insult. According to the [investigative story](#)⁶⁵ of PINA - Investigative Journalism and Analyses Platform, the defamation and insult disputes have been drastically reduced in Basic Court Skopje 2 in the past 24 months compared to the years before 2016.

However, whether online media are actually media outlets and whether their employees are journalists or common citizens is subject to different interpretation. Given this interpretation, defamation and insult lawsuits are differently treated in the courtroom. This court practice (the Civic Court in Skopje and the Appellate Court, but not the other courts within the country) was [protested by the Association of Journalists of Macedonia](#) and demanded the Supreme Court to act upon its requests for harmonizing the court practice. AJM informed it has filed a complaint to the Judicial Council against all judges who inadequately and selectively apply the Law on Civic Responsibility for Defamation and Insult⁶⁶.

⁶⁰ Senior expert group. (14 September 2017.) The former Yugoslav Republic of Macedonia: Assessment and recommendations of the Senior Experts' Group on systemic Rule of Law issues 2017. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/2017.09.14_seg_report_on_systemic_rol_issues_for_publication.pdf page 24, paragraph 122

⁶¹ European Commission, DG Neighbourhood Policy And Enlargement Negotiations Urgent Reform Priorities for the Former Yugoslav Republic of Macedonia (June 2015) https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_mk.pdf

⁶² http://mediaobservatorium.mk/wp-content/uploads/2017/11/OMR_izveshtaj_1.pdf

⁶³ http://mediaobservatorium.mk/wp-content/uploads/2018/02/OMR_izveshtaj_2.pdf

⁶⁴ http://mediaobservatorium.mk/wp-content/uploads/2018/05/OMR_izveshtaj_3_final.pdf

⁶⁵ <http://mediaobservatorium.mk/sudii-ne-gi-priznavaat-portalite-za-mediumi-vo-sluchaita-za-kleveta-i-navreda/>

⁶⁶ <http://mediaobservatorium.mk/znm-neodgovornoto-odnesuvane-na-nekoi-sudii-e-zaobikolen-obid-za-litsentsirane-na-mediumi-i-novinari/>

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