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## DEPOLITICISATION OF THE MACEDONIAN RADIO-TELEVISION PROGRAMMING COUNCIL – PRECONDITION FOR INDEPENDENCE OF THE PUBLIC SERVICE BROADCASTER

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COUNCIL – PRECONDITION FOR INDEPENDENCE OF THE PUBLIC SERVICE BROADCASTER



Publisher: Macedonian Institute for Media

For the publisher: Biljana Petkovska, Director

Author: Ljiljana Mitevska

Expert Reviewer: Brankica Petkovic, Peace Institute, Ljubljana, Slovenia

Translator: Martina Kimovska

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# COMPARATIVE ANALYSIS OF THE PROGRAMMING COUNCILS OF THE PUBLIC SERVICE BROADCASTERS OF MACEDONIA, CROATIA AND SLOVENIA

## DEPOLITICISATION OF THE MACEDONIAN RADIO-TELEVISION PROGRAMMING COUNCIL – PRECONDITION FOR INDEPENDENCE OF THE PUBLIC SERVICE BROADCASTER

*Author: Ljiljana Mitevska*

*Expert Reviewer: Brankica Petkovic, Peace Institute, Slovenia*

### 1. INTRODUCTION

The primary function of the Programming Council of the Public Service Broadcaster of the Republic of Macedonia, Macedonian Radio-Television (PSB MRT), is to protect the interests of the public and to ensure that the programming content of the PSB is free from political, commercial and other influences and ideologies, that is, to ensure the presence of different interests of the society in the programmes of the media, and not of the parties in power. Still, for years now, we have been witnessing worrying practices of direct government interference in the programme and management policy of MRT.

Instead of defending the integrity of MRT, and contrary to the competencies specified in the Law on Audio and Audiovisual Media Services (LAAMU),<sup>1</sup> the Programming Council is turning into a body that confirms and formalizes the decisions of the ruling parties, thus endorsing them as internal decisions of the PBS. Hence, regardless of the fact that it is legally set up as a body which needs to ensure the MRT programme independence, in reality, the Programming Council acts in a completely opposite manner and becomes a tool for ensuring the realization of the political/party interests through the work of MRT.

The central problem is how to achieve depoliticisation of the MRT's Programming Council, i.e. transform it into an independent body in service of the PSB, through legislation reform.

This issue is gaining importance especially having in mind that media independence, with particular emphasis on the PSB MRT, was one of the central themes related to democratic governance in the country, opened during the longstanding political crisis,<sup>2</sup> which ended by signing the Przhino Agreement.<sup>3</sup>

Taking into consideration that the Programming Council is the supreme body with a wide range of competencies playing a key role in maintaining the independence of the MRT's operations, it is becoming clear why this issue is important not only for the freedom of expression and freedom of the media, but also for the depoliticisation of the country and its more serious progress on the European integration path.

The independence of MRT's Programming Council in the wider context can be considered as a political rather than simply a technical or a legal issue, with respect to how the Council's composition should be defined, as well as how its protection from political influences should be ensured. In order to achieve independence of MRT's Programming Council as a whole, the ruling elites need to demonstrate their political will and maturity, as well as their true focus on the depoliticisation of society and all of its institutions. The manner in which the PSB is set up

<sup>1</sup> The Law on Audio and Audiovisual Media Services (Official Gazette of RM No. 184/13, 13/14, 44/14, 101/14 and 132/14), Art. 124.

<sup>2</sup> In February 2015, the then opposition leader Zoran Zaev accused that then Prime Minister Nikola Gruevski illegally wiretapped nearly 20000 citizens, political opponents, activists, foreign ambassadors and more than 100 journalists. In May 2015, mass protests started in Skopje against Prime Minister Gruevski and his government. The political crisis that began with the wiretapping scandal continued during 2016 when Gruevski resigned, and was replaced with Emil Dimitriev from the same political party as the Prime Minister.

<sup>3</sup> The Przhino Agreement of 2 June (supplemented by amendments dated 15 July 2015) was signed among the leaders of the four largest political parties in the country, with the mediation of the EU, in order to resolve the political crisis in Macedonia.

and works reflects the democratic capacity of the institutions and the values towards which the society strives.

The research of MRT's Programming Council is presented in the form of a comparative analysis of the programming councils of the public service broadcasters of Croatia and Slovenia, the Croatian Radio-Television (HRT) and Radio-Television Slovenia (RTV Slovenia). The reason for choosing these two countries is the fact that public service broadcasters in these two countries have similar management models<sup>4</sup> consisting of two separate oversight bodies, a Programming Council and a Supervisory Board, where one oversees the program, and the other oversees the financial operation of the public service broadcaster. Also, Croatia and Slovenia share a common historical and political past with Macedonia, and today they are members of the European Union, which is also the ambition of our country.

The purpose is to determine how to transform MRT into a credible and respectable public service broadcaster that protects the interests of the public and ensures independence and transparency in its operations, with a series of interventions, both legal and structural.

This research covers the period of work of MRT's Programming Council from the moment of its establishment by the Assembly of the Republic of Macedonia on 15 December 2014,<sup>5</sup> after the adoption of the new Law in 2013, to September 2017. This research used secondary data from relevant sources from all three countries such as surveys, analyses, reports and other publications from national, regional and European media organizations, as well as legislation of the three countries. In addition, six interviews with media experts and representatives of programming councils from Macedonia, Croatia and Slovenia, two from each country, were conducted for the purpose of this research.

## 1. LEGAL FRAMEWORK OF THE PROGRAMMING COUNCILS OF THE PUBLIC SERVICE BROADCASTERS OF MACEDONIA, CROATIA AND SLOVENIA

### 2.1. Composition of the programming councils of MRT, HRT and RTV Slovenia

The thirteen members of MRT's Programming Council are appointed and dismissed by the Assembly of the Republic of Macedonia on the proposal of the following authorized nominators: the Inter-University Conference, the National Institution - Albanian Theater, the National Institution - Turkish Theater and the two journalists' associations of the Republic of Macedonia with the largest number of members, which all propose one member each, while the Association of the Local Self-Government Units (ZELS) proposes candidates for the positions of three members, and the Committee on Election and Appointment Issues of the Assembly of the Republic of Macedonia proposes candidates for the positions of five members.<sup>6</sup>

In Croatia, nine out of a total of 11 members of HRT's Programming Council are appointed by the Parliament, following a previous open public competition announced by the Parliamentary Committee on Information, Computerization and Media. The remaining two members are selected by HRT employees (creative staff).<sup>7</sup>

In Slovenia, out of a total of 29 members, the Parliament appoints 21 members, 16 members after a previous open public call for nominations from the general public (viewers/audience/listeners, universities and civic associations) and five representatives of the political parties in the Parliament, according to their proportional representation. The remaining members are: one representative from the Italian and one from the Hungarian minority, appointed by their local self-governments, two representatives from religious groups appointed by the President of Slovenia, one representative from the Slovenian Academy of Sciences and Arts, and three representatives elected by the employees of RTV Slovenia.<sup>8</sup>

<sup>4</sup> Unlike Macedonia, Croatia and Slovenia, in most neighboring countries such as Albania, Bosnia and Herzegovina, Kosovo, Serbia and Montenegro, the governing model consists of one managing body that supervises the overall performance of the public service broadcaster. See: Petković, B., Panić, S. and Hrvatin, B., S., *Comparing models and demanding reforms of public servicemedia*, Media Observatory website, 2016. Available at: <http://mediaobservatory.net/radar/comparing-models-and-demanding-reforms-public-service-media>.

<sup>5</sup> The Assembly of the Republic of Macedonia failed to meet all the legal deadlines, and after one year from the adoption of the new Law on Audio and Audiovisual Media Services of the Republic of Macedonia dated 25 December 2013, regulating the work of MRT, it finally elected the composition of the MRT Programming Council. See: <https://www.sobranie.mk/sessiondetails.aspx?sessionDetailsId=033951f1-8c53-4342-bb28-97866b61f10e&date=15.12.2014>

<sup>6</sup> Law on Audio and Audiovisual Media Services (Official Gazette of the RM no. 184/13, 13/14, 44/14, 101/14 and 132/14), Art. 117.

<sup>7</sup> Zakon o Hrvatskoj radio televiziji (Narodne novine br. 137/10, 76/12, 78/16, 46/17, 73/17), čl. 25.

<sup>8</sup> Zakon o Radioteleviziji Slovenia (Uradniklist RS, št. 96/05, 109/05, 105/06, 26/09, 9/14), čl. 17.

**Table 1: Size, composition and mandate of the programming councils of MRT, HRT and RTV Slovenia**

	МАКЕДОНИЈА	ХРВАТСКА	СЛОВЕНИЈА
Number of members in the Programming Council	<b>13</b>	<b>11</b>	<b>29</b>
Appointed by the Parliament	<p><b>13</b></p> <p>On the proposal of 7 authorized proposers:</p> <p>The following propose 1 member each: Inter-University Conference, the Albanian Theater, the Turkish Theater, and the 2 journalists' associations of the Republic of Macedonia (AJM and MAJ);</p> <p>the Association of the Local Self-Government Units proposes 3 members;</p> <p>the Committee on Election and Appointment Issues of the Assembly of the Republic of Macedonia proposes 5 members;</p>	<p><b>9</b></p> <p>All selected on a public competition announced by the Parliamentary Committee on Information, Computerization and Media;</p>	<p><b>21</b></p> <p>16 members selected on a public call after previously receiving nominations from the general public (viewers/audience/listeners, universities and civic associations);</p> <p>5 representatives of the political parties in the Parliament, according to their proportional representation;</p>
Appointed by other institutions	/	/	<p><b>4</b></p> <p>1 representative from the Italian and 1 from the Hungarian minority, appointed by their local self-governments (total 2);</p> <p>2 representatives from religious groups appointed by the President of Slovenia;</p>
Direct appointment	/	<p><b>2</b></p> <p>2 representatives from the employees;</p>	<p><b>4</b></p> <p>3 representatives from the employees;</p> <p>1 representative from the Slovenian Academy of Sciences and Arts;</p>
Mandate/Term	<b>5 years</b>	<p><b>4 years</b></p> <p>Half of the members are appointed each 2 years;</p>	<p><b>4 years</b></p> <p>Half of the 16 members from the general public (8) appointed by the Parliament, are appointed each 2 years;</p>
Election of the president and deputy president of the Programming Council	Elected with the majority vote from the total number of members.	Elected with the majority vote from the total number of members.	Elected with the majority vote from the total number of members.
Source: Law on Audio and Audiovisual Media Services (Macedonia), Law on Croatian Radio-Television (Croatia), Law on Radio-Television Slovenia (Slovenia)			



The **qualifications** that the members of the programming councils of MRT, HRT and RTV Slovenia should have, as defined by the laws, cover a wide range, however they are very similar in all three countries. In general, they should be individuals with a certain social reputation, knowledge and notable achievements in various fields, such as the media, freedom of expression, rule of law and democratic principles, civil society development, protection of human rights and freedoms, promotion of culture, science and arts, etc.

In Slovenia, the 16 candidates nominated by the general public should prove their qualifications with documents required in the framework of the public call, while in Macedonia members are required to provide documents related to their university education. Moreover, in Croatia and Macedonia, the candidates should be nationals of the respective country.

The provisions relating to the **conflicts of interest** in all three countries are primarily aimed at the exclusion of political and commercial interests. Persons from the governing structures of political parties, state officials, heads of state bodies or units of local self-government, as well as holders of public office are designated as persons who cannot be nominated for membership in the Programming Council. In the case of Macedonia and Slovenia, for holders of public office and for senior officials in a political party body, this rule applies even after five years from the end of their appointment.

Members of the programming council in all three countries also cannot be employees, owners and members of the governing/managing bodies of commercial competing broadcasters.<sup>9</sup> When it comes to MRT's Programming Council, there are additional criteria that apply not only to producers of radio and television programs, but also to news agencies, advertising and propaganda companies, market research and public opinion organizations, film distribution companies, film production companies and companies that provide public electronic communications networks and services.

In Macedonia, MRT employees are excluded from the Programming Council due to conflict of interest, and in Croatia and Slovenia they are listed in the categories that have the privilege to directly nominate representatives in this oversight body and participate in the management of the public service broadcaster.

Furthermore, in Macedonia, the leaders of the religious communities are persons excluded from the opportunity of membership, and the same goes for the RTV Slovenia family members in Slovenia.

**The duration of the mandate/term** of the members of the Programming Council is five years in Macedonia and four years in Croatia and Slovenia. In Slovenia and Croatia there are provisions according to which the mandate does not begin, i.e. it does not end simultaneously for all members of the body. In particular, in Slovenia, half of the 16 members of the public appointed by the Assembly, that is eight of them, are changed every two years, while in Croatia half of the members are appointed every two years. The goal is to avoid the possibility of appointing all members during the rule of one political establishment.

## 2.2. Authorizations and competencies of the Programming Councils of MRT, HRT and RTV Slovenia

The main task of the Public Service Broadcasters' Programming Councils in all three countries is monitoring the fulfillment of programme obligations, principles and standards. In case of disregarding the afore-stated, MRT's Programming Council is obliged to warn the MRT Director in writing and may request him to terminate the broadcasting of the programme. In Croatia, in case of non-compliance with the programme obligations and principles, the Programming Council warns the HRT Directorate and the Editors-in-chief in writing, and sends a notice to the Supervisory Board with respect to the issued warning. The Programming Council of RTV Slovenia, on their part, regularly discusses the implementation of the adopted programme concepts and gives directions to the Director General regarding the correction of the shortcomings in this area.

The **competences** of the Public Service Broadcasters Programming Councils in Macedonia, Croatia and Slovenia include their approval or at least their opinions on some of the most important documents of the public service broadcaster. In particular, MRT's Programming Council adopts MRT's annual work report for the previous year and MRT's annual work programme for the next year, as well as the programme

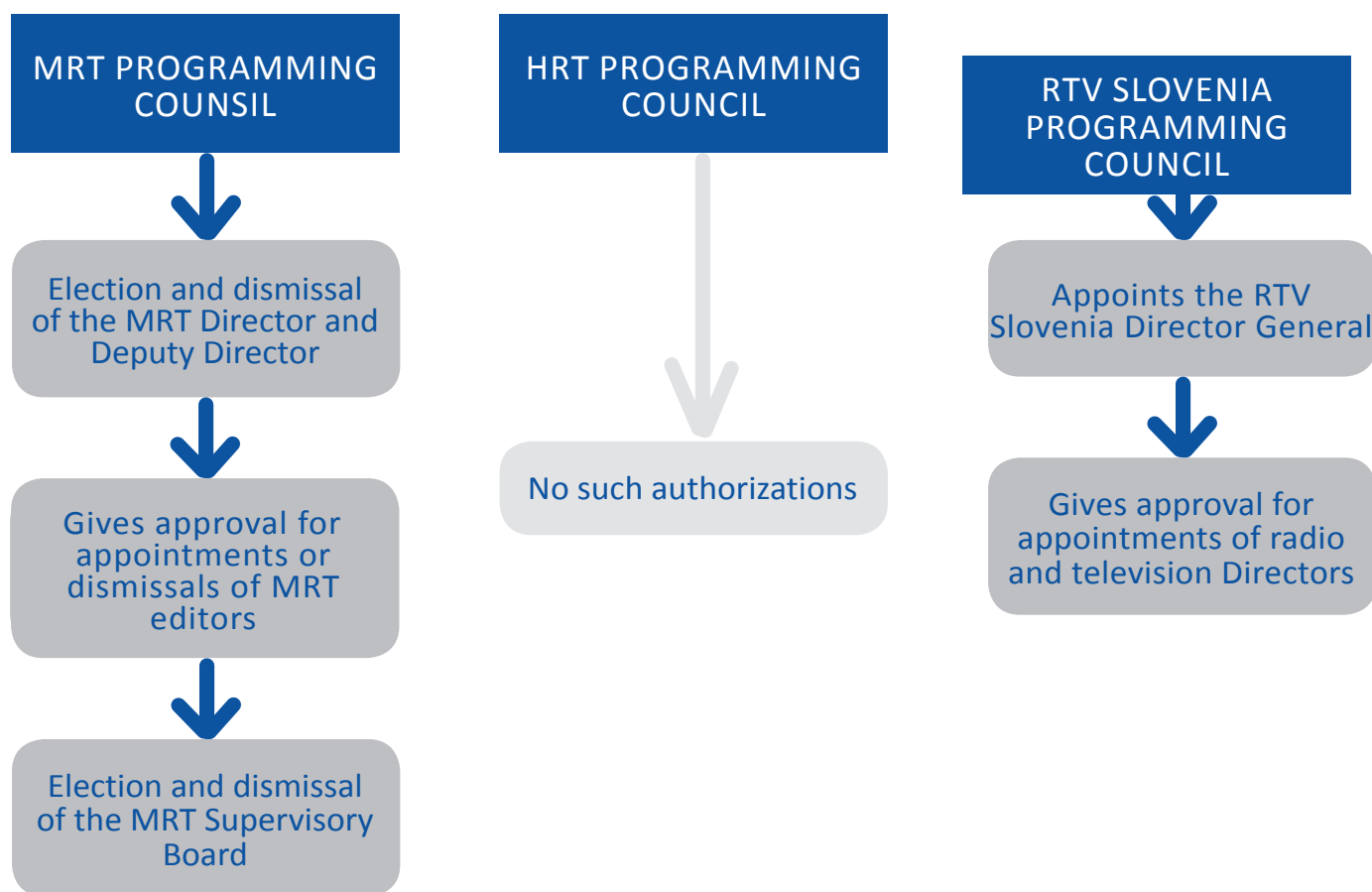
<sup>9</sup> In Slovenia and Croatia, this provision applies to competing media outlets, which is a wider category that includes not only competing broadcasters but also competing online media outlets.

development. In Slovenia, the Public Service Broadcaster Programming Council, upon the proposal of the Director, adopts the annual programme-production plan<sup>10</sup> and programme scheme for the next year, and provides its opinion on the draft financial plan. While HRT's Programming Council only provides their opinion on HRT's proposed work programme.

A different system is used in Croatia according to which the annual plan and the annual budget are not adopted by the Programming Council, but by the Supervisory Board, which is a management body responsible for overseeing the financing of the PSB. In Croatia and Slovenia, the Supervisory Board is also responsible for the adoption of the statute of the PSB, while in Macedonia this is the task of the Programming Council. However, the Programming Council of RTV Slovenia participates in the adoption or changes of the Statute since this requires prior consent for such adoption or amendment.

An additional important competence of MRT's Programming Council is the selection and dismissal of the members of the PSB's Supervisory Board. In addition, this body is also responsible for the election and dismissal of the Director and the Deputy Director of MRT. In Slovenia, the Programming Council appoints the Director General and gives approval for appointment of the radio and television directors, while in Croatia, the Parliament of the Republic of Croatia is the responsible authority appointing the Director General.

**Chart 1: Competencies of the Programming Councils of MRT, HRT and RTV Slovenia in relation to the management staff**



When it comes to **the appointment of the editors-in-chief and editors**, MRT's Programming Council gives its approval on the appointment or dismissal of the MRT editors. Prior to making the decision on the appointment or dismissal of the MRT editors, the MRT Director is obliged to request the consent of MRT's Programming Council. With the request for obtaining consent, the MRT Director also delivers the opinion of the editorial board.<sup>11</sup>

<sup>10</sup> Twice a year, the CEO of RTV Slovenia is obliged to submit a report for the realization of the annual programme and production plan including the possible concessions.

<sup>11</sup> Law on Audio and Audiovisual Media Services (Official Gazette of the RM No. 184/13, 13/14, 44/14, 101/14 and 132/14), Art. 124.

In Slovenia, the PSB Programming Council votes on the appointment of the editors-in-chief and editors only in cases where the candidates selected by the Director General did not receive the support of the journalists and editors in their programme unit in the nomination procedure. In Croatia, the Director General elects HRT's editors-in-chief based on a conducted public competition and previously received opinion from the journalists and other employees.

In the case of Macedonia and Slovenia, the legal solutions indicate that the Programming Councils review the ***complaints and suggestions of viewers/audience and listeners***. In addition, in Slovenia, the Programming Council appoints a special person, a "protector of the rights of the viewers/audience and listeners" or "ombudsman", which provides expert analysis of the criticism coming from the viewers. This function exists in Croatia where the Programming Council gives its opinion and appoints the "HRT customer service commissioner".

### 2.3. Quality of the legislation regulating the issues related to the Programming Councils of MRT, HRT and RTV Slovenia

The current legal solution for the composition of MRT's Programming Council leaves ample room for direct ***political influence on the public service broadcaster***. In particular, as many as 10 out of 13 members are proposed by state bodies, institutions financed directly from the budget, which makes it logical that they could fall under state control, and not to forget the organizations controlled by the political parties. The influence of the government dominates through the Committee on Elections and Appointments Issues of the Assembly of the Republic of Macedonia, which appoints as much as 5 members and the Association of Local Self-Government Units, which appoints 3 members. The Albanian and Turkish theaters, as cultural institutions fully funded by the Ministry of Culture and managed by political party appointed staff, propose one member each in the Programming Council. Hence, the current model with the specific authorized nominators contributes to providing control and dominance over MRT by the political parties in power in the period when the Programming Council is established.

So, even in the phase of nominating members, the proposals, i.e. the nominators who represent nothing more than an extended hand of the parties in power are dominant. With such a composition, in the words of Vedat Memedalija,<sup>12</sup> a member of MRT's Programming Council from AJM, the other three members of the Programming Council are powerless to influence the decision-making, position-taking and opinion-giving different from that of the governing structures.

Pursuant to the Law,<sup>13</sup> this body should protect the interests of the public in terms of programme content and should represent the diversity of Macedonian society. In contrast, the Programming Council thus outlined is a politically controlled body that neither represents the diversity of the Macedonian society, nor can it ensure the impartiality in the editorial policy of MRT in terms of government and state institutions.

Delegating members by state institutions exists in Slovenia, as well. There, as in Macedonia, the Parliament not only plays a role in the appointment of the members of the Programming Council, but it is also directly represented by five members elected on the proposal of the political parties. Yet, unlike Macedonia where the Assembly votes on the appointment of all the members of the Programming Council on the principle of majority vote, which means that the leaders of the ruling coalition actually nominate and appoint the members, in Slovenia, there is a legal provision,<sup>14</sup> according to which, the five members must reflect the proportional representation of the political parties represented in the National Assembly, that is, they include proposals from the members of the opposition.

In Macedonia, the members of the Programming Council may be nominated only by the seven authorized nominators. Slovenia, on the other hand, has a combined model that includes authorized nominators, but also representatives directly entering the Programming Council of the PSB (employees and one member on the proposal of the Slovenian Academy of Sciences and Arts), as well as candidates nominated by the

<sup>12</sup> Interview with Vedat Memedalija, editor in the daily newspaper Koha and a representative of the Association of Journalists of Macedonia (AJM) in MRT's Programming Council, 24 August 2017.

<sup>13</sup> Law on Audio and Audiovisual Media Services (Official Gazette of the RM no. 184/13, 13/14, 44/14, 101/14 и 132/14), Art. 116.

<sup>14</sup> Zakon o Radioteleviziji Slovenija (Uradniklist RS, št. 96/05, 109/05, 105/06, 26/09, 9/14), Čl. 17 (Paragraph 6, line 6).



citizens, i.e. viewers/audience/listeners, universities and civic associations. This reduces the possibility of direct political control over this body.

Also, the fact that RTV Slovenia's Programming Council is a very extensive body of as much as 29 members contributes to increasing the chances of greater independence, although the issue of the council's effectiveness in the discussions and decision-making is something all together different.

"In Slovenia, the size of the Programming Council reflects the effort to include representatives of various groups present in society. The current size of this body is really a bit exaggerated, but not too much, because it must not be small. So, if this body has more members, the possibility of control would be reduced. The smaller the body, the easier it is to control", Brankica Petković,<sup>15</sup> media expert and member of RTV Slovenia's Programming Council says.

An additional guarantee *for reducing political influences* in RTV Slovenia's Programming Council is the fact that half of the 16 members of the citizens with a four-year mandate, appointed by the Assembly, change every two years, that is, one political party cannot control all members simultaneously. "The mandate of some of the members started in 2014, while the mandate of other members started in 2016. This means that not all members have a mandate in one package, i.e. a single government cannot change too many of those members. This is good because in that way the direct influence of the then government is reduced to a certain extent", says Marko Milosavljević,<sup>16</sup> media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana.

Additionally, Brankica Petković<sup>17</sup> underlines that "if the body is large enough and the members of the Programming Council are appointed from a whole range of different instances, and, moreover, if those appointed and elected by the Assembly are changed every two years, and a third or half of members are appointed by someone else, then it is difficult to control the entire Programming Council".

Although in Macedonia *the public service broadcaster' employees* are excluded from becoming members of the Programming Council due to conflict of interest, this is a long-standing practice in Croatia and Slovenia, and according to interlocutors from these countries involved in this research, it is a good practice. "Employees of the public service broadcaster present the information from within. They know the internal problems and needs. In this way you get a direct insight into their attitudes, problems and interests, and if you are a well-intentioned external controller, you will hear and think about what they are underlining. If you do not have them in the Council then you cannot hear that internal attitude, you can only hear the Director General who does not necessarily have to tell the truth. Isn't that the case?" Brankica Petković,<sup>18</sup> member of RTV Slovenia's Programming Council.

These two provisions, **changing half of the members every two years and directly involving representatives of the employees in the council**, are also mentioned in the law regulating issues related to the public service broadcaster of Croatia. The Croatian model of the Programming Council does not include authorized nominators. The Council' members are rather elected at an open public competition, and appointed by the Parliament of the Republic of Croatia. However, the fact that the Parliament has the final say in the election of almost all candidates for members of the Programming Council (other than the two employees' representatives) raises the risks of political delegation and election of people close to the governing structures.

"The Programming Council has no legal power to protect the independence, and since nine of the eleven members of the Programming Council are appointed by the Parliament, the Programming Council reflects the power relations in the Parliament", says Helena Popović,<sup>19</sup> media expert and a professor of communications at the Faculty of Political Science at the University of Zagreb.

<sup>15</sup> Interview with Brankica Petković, member of RTV Slovenia's Programming Council, 1 September 2017.

<sup>16</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.

<sup>17</sup> Interview with Brankica Petković, member of RTV Slovenia's Programming Council, 1 September 2017.

<sup>18</sup> Ibid.

<sup>19</sup> Interview with Helena Popović, media expert and professor of communicology at the Faculty of Political Science at the University of Zagreb, 10 September 2017.

In this context, it is important to note that in 2012, with amendments to the Law on HRT from 2010, there was a significant narrowing of the role and competences of the Programming Council. This led to a strengthened position of the Croatian Parliament which appoints the HRT Director General, the majority of the members of the HRT' Supervisory Board and nine out of eleven members of HRT's Programming Council. "The Programming Council's authority is now reduced to monitoring the implementation of the programme principles, regulating the manner of determining the content and text of HRT's programme tasks and holding public debates and discussions on HRT, on the proposal of the HRT Management, giving opinions on the draft HRT work program, giving opinions on the draft agreement and the appointment of the HRT customer service commissioner. In short, the role of the Programming Council in the work of HRT has been greatly reduced by law, and it has been reduced to form over substance", Professor Helena Popovića adds.<sup>20</sup>

HRT' editor, Maja Sever,<sup>21</sup> who is also a member of HRT's Programming Council as a representative of the employees, says that this body has an exclusively advisory role and Council' decisions are not binding for the managers of the public service broadcaster. "Since I have been a member of the Council, HRT's leadership often has not taken into account the discussions and decisions of the Programming Council. I think that the authority of the Programming Council should be reinforced. Debating without any influence is meaningless. Especially in a situation where the management is not obliged to answer specific questions and requests. In this way, the Programming Council is serves only as a decoration to democracy and a forum for criticizing the programme", underlines Sever.

### 3. PROGRAMMING INDEPENDENCE, TRANSPARENCY AND ACCOUNTABILITY

#### 3.1. The influence of politics on the Programming Councilsof MRT, HRT and RTV Slovenia

The legal framework and the formal management structure of Public Service Broadcasters is one aspect, and their implementation in practice is quite another aspect. This is why there is often a distinction between formal independence—*de jure* and true independence—*de facto*.<sup>22</sup> In fact, it is completely unrealistic to expect the Programming Council, as an oversight body, to fulfill its role as a protector of the independence of the Public Service Broadcaster, if this body itself is not independent and does not have a balanced and pluralistic composition.

"Until the Programming Council, and MRT in general, frees itself of political-party influences and clientelist ties, until it truly opens up to the citizens, and until a system with political, cultural and pluralistic ideas is established in the programme content on any other ground, until then we will not be able to talk about a public service broadcaster, but only about a state service broadcaster", says Igor Micevski<sup>23</sup> lecturer at the School of Journalism and Public Relations.

In fact throughout the region, "former state media, although formally transformed into public service broadcasters, were quickly taken over by political elites. This resulted in a specific form of party dominance in the media, in which senior, editorial and other important positions were reserved for staff loyal to those in power".<sup>24</sup>

According to professor Helena Popović, in Croatia, "any change in government causes 'earthquakes' in the public service broadcaster. Since gaining independence to date, the political elites in Croatia have been continuously controlling HRT, with greater or lesser intensity. The various political parties infiltrated their people' while they were in power".<sup>25</sup>

<sup>20</sup> Ibid.

<sup>21</sup> Interview with Maja Sever, editor and member of HRT's Programming Council, 6 September 2017.

<sup>22</sup> Wagner, M. and Berg, A., Legal focus: Governance principles for public service media, European Broadcasting Union website, 2015. Available at: [https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin\\_EN.pdf](https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin_EN.pdf)

<sup>23</sup> Interview with Igor Micevski, lecturer and researcher at the School of Journalism and Public Relations, 25 August 2017.

<sup>24</sup> Petković, B., Panić, S., and Hrvatin, B., S., Comparing models and demanding reforms of public service media, Media Observatory website, 2016. Available at: <http://mediaobservatory.net/radar/comparing-models-and-demanding-reforms-public-service-media>.

<sup>25</sup> Interview with Helena Popović, media expert and professor of communicology at the Faculty of Political Science at the University of Zagreb, 10 September 2017.

In such a situation, **a key challenge for the public service broadcasters is not only to defend their independence from external pressures but also their values**, and the success in this field certainly depends on the intensity and longevity of the impacts. “Since in Croatia the conservative parties (dominated by HDZ in different coalitions) covered the longest ruling period, conservative values are reflected in the editorial policy. All this was radicalized after the elections in 2015 by the rule of conservative currents and with leadership championing nationalist and even pro-fascist views. In short, we are witnesses of the fascization and clericalization of the country, which reflects on HRT’s staff policies, and hence on the content of the programme”, adds Helena Popović.<sup>26</sup>

In this context, neither RTV Slovenia’s Programming Council, nor Slovenia in that respect, are immune to political influences reflected in the programme content. However, the independence in its work is a step ahead in comparison with Macedonia and Croatia. As Professor Marko Milosavljević says: “Slovenia compared with other countries of former Yugoslavia has gone through some processes relatively well. However, we should not be too complacent about it because things can be far better”.<sup>27</sup>

The member of RTV Slovenia’s Programming Council, Brankica Petković, admits that there are risks of political control. “In the past, especially in the first composition of establishment of the Programming Council, there were cases when this body was completely instrumentalized and controlled, but as time passed, and as all coalition governments in which the power and interest scattered changed, various minor subversions and entries of people who were not politically delegated happened. And what is interesting is that nowadays, no political party has control over this body”.<sup>28</sup>

Examples that indicate to a directly instrumentalized MRT’s Programming Council are numerous. This phenomenon has become particularly evident and received alarming proportions during the protracted political crisis when the Programming Council clearly advocated the interests of the then ruling political party, the right-wing VMRO-DPMNE.

MRT’s reporting of the criminal charges against the then opposition leader Zoran Zaev,<sup>29</sup> the manner in which the public service informed on the case of the journalist Tomislav Kezharovski<sup>30</sup> or the strike of the Trade Union of Education Science and Culture (SONK),<sup>31</sup> clearly indicated that “MRT does not represent the public interest, and that it is rather instrumental in the function of the propaganda machinery of the governing power”.<sup>32</sup> The situation culminated when MRT decided not to report at all about the scandal with the wiretapped conversations<sup>33</sup> and about the events in the Assembly of 27 April 2017.<sup>34</sup>

The member of MRT’s Programming Council, Vedat Memedalija,<sup>35</sup> says that so far only two of the members have given a certain critical opinion regarding the coverage of a particular event, events or specific programs. Still, this has no effect because the Programming Council as a collective body has not reacted even once. “This is happening because the Programming Council, as it is set up, is in conjunction with the Director and represents the interests of a particular ideological side. According to the law, we have great authority, however, the problem is that the actual membership does not take into consideration the public interest”, says Memedalija.

<sup>26</sup> Ibid.

<sup>27</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.

<sup>28</sup> Interview with Brankica Petković, member of RTV Slovenia’s Programming Council, 1 September 2017.

<sup>29</sup> On 31 January 2015, the Ministry of the Interior filed criminal charges against SDSM leader Zoran Zaev for allegedly “violence against a representative of the highest state bodies, as well as espionage and coup d’état”.

<sup>30</sup> The journalist Tomislav Kezharovski was accused of having disclosed the identity of a protected witness in a 2008 journalist text for the Oreshe case, although the witness was not at all protected at the time the text was published. This case was perceived by the domestic and international public as an attempt by the government to intimidate the media.

<sup>31</sup> The strike of the independent Trade Union of Education, Science and Culture (SONK), which began on 20 January 2015, was accompanied by controversial actions mainly directed at its prevention by the Government and local authorities.

<sup>32</sup> MDC, “Monitoring na informiranje na MRT, Studii na sluchaj: Kezharovski, shtrajk na SONK, krivichna prijava protiv Zaev”, 2015. Available at: <http://mdc.org.mk/monitoring-na-informiranje-na-mrt>.

<sup>33</sup> A1on.mk, “Petrevski: Obinitelstvoto zavrani da gi objavuvame ‘bombite’ na Zaev”, 12 March 2015. Available at: <http://a1on.mk/archives/463122>

<sup>34</sup> Fokus, “MRT: Programskiot sovet odluchi da ne ja sledime sobraniskata sedinca na 27 april”, 11 May 2017. Available at: <http://fokus.mk/mrt-programskiot-sovet-odluchi-da-ne-ja-sledime-sobraniskata-sedinitsa-na-27-april/>.

<sup>35</sup> Interview with Vedat Memedalija, editor in the daily newspaper Koha and a representative of the Association of Journalists of Macedonia (AJM) in MRT’s Programming Council, 24 August 2017.

By maintaining clientelist relations with the political power centers, instead of encouraging diversity of opinions and freedom of information, which are the main goals of an effective media policy at EU level, the members of MRT's Programming Council impede the quality of the programme.

In this context, both the European Commission's Progress Report on Macedonia for 2015<sup>36</sup> and 2016<sup>37</sup>, report "serious concerns over selective reporting and lack of editorial independence on the part of the Public Service Broadcaster". Additionally, the 2015 report states that "strengthening the independence and capacity of the Public Service Broadcaster" is needed, while the report for 2016 states that "there is a good level of preparation in the field of electronic communications and information society. However, no progress has been made during the reporting period. The following year, the country should ensure proper implementation of the legal framework for electronic communications and audio-visual media, as well as strengthen the independence and capacity of the media regulator and the Public Broadcasting Service".

MRT's work was also in the focus of the "Recommendations of the Senior Experts' Group on systemic Rule of Law issues relating to the communications interception revealed in Spring 2015", more commonly known as the Priebe Report, which recommends "the Public Service Broadcaster should strive to be completely impartial and independent from political, commercial and other influences and ideologies and contribute to an informed citizenship".<sup>38</sup>

More precisely, the need for reforms in MRT was one of the priorities related to the media sphere during the negotiations between political parties as part of the Przhino agreement, in order to ensure the conditions for holding fair and democratic elections in 2016.

### 3.2. How to defend the independence from external pressures

Changes to the media legislation in line with the Emergency Reform Priorities<sup>39</sup> and the Priebe Report present an obligation for Macedonia in the context of the country's efforts to democratize and restore the path to the EU. Regarding MRT, these changes relate primarily to the Programming Council. Hence, apart from establishing the factual situation in relation to the current legislation and its implementation in practice, it is necessary to address the potential risks, as well as the possible mechanisms for overcoming them in the process of preparation of the new legal solutions in the context of the Programming Council, with the aim of providing conditions for a truly independent functioning of the public service.

The state is the most powerful factor that influences the formulation of media legislation.<sup>40</sup> Still, **the role of the state bodies**, such as the Parliament and the Government, should consist only in setting the legal framework for the public service broadcaster, and not interfering in operational or supervisory matters.<sup>41</sup> However, having in mind the dominant role of parliaments in the procedures for appointing the management/governing bodies of the public service broadcasters, the composition of the management/governing bodies appointed by the Assembly is a reflection of the profile and interests of the political majority.<sup>42</sup>

"When the Assembly appoints members to the Programming Council, officially, those should be people with certain qualities, relevance, etc. However, very often the nominated people are known to be close to a certain political party. So, this can all look perfect on paper. For example, in Slovenia, a good number of

<sup>36</sup> European Commission, *The Former Yugoslav Republic of Macedonia Report 2015*, 2015. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_the\\_former\\_yugoslav\\_republic\\_of\\_macedonia.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_the_former_yugoslav_republic_of_macedonia.pdf).

<sup>37</sup> European Commission, *The Former Yugoslav Republic of Macedonia Report 2016*, 2016. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_the\\_former\\_yugoslav\\_republic\\_of\\_macedonia.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf).

<sup>38</sup> European Commission, "The Former Yugoslav Republic of Macedonia: Recommendations of the Senior Experts' Group on Systemic Rule of Law Issues Relating to the Communications Interception Revealed in Spring 2015", 2015. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news\\_corner/news/news-files/20150619\\_recommendations\\_of\\_the\\_senior\\_experts\\_group.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/news_corner/news/news-files/20150619_recommendations_of_the_senior_experts_group.pdf).

<sup>39</sup> Available at: [https://eeas.europa.eu/sites/eeas/files/urgent\\_reform\\_priorities\\_en.pdf](https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf).

<sup>40</sup> Švob-Đokić, N., Bilić, P., & Peruško, Z., *Does media policy promote media freedom and independence? The case of Croatia* (Case study report), 2011. Available at: <http://www.mediadem.eliamep.gr/wp-content/uploads/2012/01/Croatia.pdf>.

<sup>41</sup> Wagner, M. and Berg, A., Legal focus: Governance principles for public service media, European Broadcasting Union website, 2015. Available at: [https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin\\_EN.pdf](https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin_EN.pdf).

<sup>42</sup> Petković, B., Panić, S., and Hrvatin, B., S., Comparing models and demanding reforms of public service media, Media Observatory website, 2016. Available at: <http://mediaobservatory.net/radar/comparing-models-and-demanding-reforms-public-service-media>.



members of the Programming Council are proposed by the civil society, still, in the end, the Parliament is the one that decides upon the nominations, but this certainly opens the possibility of political manipulation and selection of staff close to the governing structures”, says Marko Milosavljević.<sup>43</sup>

The possible solution to this problem, as Helena Popović<sup>44</sup> mentions, is “the appointment of members to the Programming Council outside the structure of political institutions”. This direct appointment of members to the Programming Council is a good solution in the context of reducing political influence, however it also brings certain risks with respect to the conflict of interest, especially when it comes to professional associations.

“If, for example, the association of Slovenian writers, producers, musicians, etc. directly nominate one member each in the Programming Council, it would be ethically dangerous because these associations have their own business interests. In Slovenia, a typical example of this are the musicians. They have a very clear interest, increasing the quotas of Slovene music since they receive more money from the radios and the copyright association. And they succeed in doing so. The situation is similar with the producers. The most clean cut, in a certain way, is the Association of Journalists, which certainly must have a role and presence in the Council, because it has no material interests in terms of quotas”, says Marko Milosavljević.<sup>45</sup>

Therefore, one must have in mind the **categories of society that truly represent the public**, because the Programming Council should represent the collective interests in society, and not the interests of those nominated or appointed by its members.

In this context, Maja Sever<sup>46</sup> believes that “the idea of independent intellectuals is good and that in such a legal framework there will be no fear of the influence on the independence of the public service”. While Marko Milosavljević<sup>47</sup> says that the problem is not always bound only with political influences. It is also bound to the character and integrity of the people who are elected to the Programming Council, and this would not be solved by the change of the law. “You can always have people who sound quite good on paper, but they are not independent in character, they are not strong personalities and do not have the defiance and the integrity”.

“We have recently proposed the establishment of a so-called ‘Participatory Model of MRT’- a model that should, inter alia, enable the establishment of protocols according to which the Programming Council will have a mandatory regular contact with the public, and at the same time it will be accountable to the public as well. This will require a greater transparency and publicity in the operation, and the channels of communication, such as social networks, will have to be used. The civic sector should also have an appropriate influence; however it should not be too extensive. This influence should reflect the diversity in Macedonia. When talking about diversity, I do not only refer to the ethnic diversity, but also to diversity of other types of cultural and political existence”, says Igor Micevski,<sup>48</sup> emphasizing the study<sup>49</sup> prepared for the Center for Social Research - Analytics from Sarajevo.

In order to provide a quality oversight body of **the public service, which will truly protect the interests of the public**, during the political crisis the media community in Macedonia came forward with its proposal for

<sup>43</sup> Petković, B., Panić, S., and Hrvatin, B., S., Comparing models and demanding reforms of public service media, Media Observatory website, 2016. Available at: <http://mediaobservatory.net/radar/comparing-models-and-demanding-reforms-public-service-media>.

<sup>44</sup> Interview with Helena Popović, media expert and professor of communicology at the Faculty of Political Science at the University of Zagreb, 10 September 2017.

<sup>45</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.

<sup>46</sup> Interview with Maja Sever, editor and member of HRT's Programming Council, 6 September 2017.

<sup>47</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.

<sup>48</sup> Interview with Igor Micevski, lecturer and researcher at the School of Journalism and Public Relations, 25 August 2017.

<sup>49</sup> Trpevska, S., and Micevski, I., “The Development and Future of PSB in Macedonia: Towards the Construction of a Participatory PSB Model”, Analitika-Center for Social Research Website, Sarajevo, 2017. Available at: <http://www.analitika.ba/en/publications/development-and-future-psb-macedonia-towards-construction-participatory-psb-model>. Accessed on: 7 September 2017.



amendments to the Law on Audio and Audiovisual Media Services,<sup>50</sup> which with respect to the MRT supports the idea that members of the Programming Council should be selected on an open public competition, after previously providing letters of support from relevant civil society organizations, associations of journalists, associations in the field of culture and higher education institutions.

In this way, simultaneously supported by several notable organizations, the goal is to get the best possible choice of candidates for members of the Programming Council for which there will be general consensus in the public. Additionally, the proposal for their appointment with a 2/3 majority in the Assembly reduces the chances of electing members which are inadequately competent, and yet suitable and eligible for a certain political party.

This proposal, which has been circulating in the public since March 2016, arose from the obvious need and the invested efforts of professional media associations for strengthening media independence in the country. In the context of the MRT, these efforts are directed towards abandoning the existing model for nominating members to the Programming Council by authorized proposers (state bodies and politically controlled institutions), which are the main reason for the vulnerability of this body to political influence.

Based on this proposal, the Ministry of Information Society and Administration has prepared the Draft-law on Amending the Law on Audio and Audiovisual Media Services from September 2017, which has yet to be subject to a public hearing.<sup>51</sup>

### 3.3. Transparency and accountability – preconditions for credibility of the Programming Council

Even the best legal solution will not give the desired result if the atmosphere in the public service broadcaster, the political culture and the behavior of the governing structures do not support its independence. The independence of the public service broadcaster, in turn, is closely correlated with its **transparency and accountability**.

Hence, it is not surprising that, taking into account the volume of publicly available documents on its website, MRT seems completely closed to the citizens and the public. Despite the modest legal requirements for transparency and accountability, MRT does not manage to comply with the basic principles.<sup>52</sup> For example, although the agenda, the minutes of the Programming Council sessions, the adopted decisions, as well as the positions of the members of the Council during the voting procedure for a particular issue should be published on MRT's website within seven days from the day of the session, these obligations are rarely respected.

The PSB's website neither contains the general information about the governing bodies, the management structure, the Supervisory Board and the Programming Council, nor does it contain the decisions they make, while the annual reports and audit reports are often published late. In fact, very often when it comes to major changes and decisions related to MRT, the public learns about them from other media.

As a result of the lack of any information regarding the sessions of the Programming Council, although according to the Law<sup>53</sup> they are public, the interested parties are not even able to attend because MRT has not met the first precondition, i.e. to inform about the holding of the session, indicates Vedat Memedalija, member of the Programming Council of AJM.

<sup>50</sup> Five journalists and media organisations, the Association of Journalists of Macedonia, the Independent Trade Union of Journalists, the Council of Ethics, the Macedonian Institute of Media and the Institute of Communication Studies, in March 2016, submitted the proposal of the European mediator Peter Vanhoutte amending the Law on Audio and Audiovisual Services to the Assembly, as a good basis for undertaking the media reforms in the Republic of Macedonia. See: AJM, "The proposal of Peter Vanhoutte submitted to the Assembly", 28 March 2016. Available at: <https://znm.org.mk/?p=1861>.

<sup>51</sup> The draft law was released to all stakeholders in order to receive feedback on the solutions in the course of September 2017, however, at the time of publication of this text, the proposal has not yet been submitted to the Assembly of the Republic of Macedonia.

<sup>52</sup> Law on Audio and Audiovisual Media Services (Official Gazette of the RM no. 184/13, 13/14, 44/14, 101/14 and 132/14), Art.122.

<sup>53</sup> Ibid.

**Table 2: Transparency in the work of the Programming Councils of MRT, HRT and RTV Slovenia**

AVAILABLE AT THE INTERNET PAGES OF THE PSB	MRT	HRT	RTV SLOVENIA
Information on the members of the Programming Council	NO	YES	YES
Announcements on holding sessions of the Programming Council with items on the agenda	NO	YES	YES
Minutes from the sessions of the Programming Council	NO	YES	YES
Decisions adopted on the sessions of the Programming Council	NO	YES	YES
Manuals, Rulebooks, Laws, Legal acts and Documents	NO*	YES	YES
Annual reports and plans, as well as working programs	YES	YES	YES
The sessions of the Programming Council are broadcasted live on the website of the public service broadcaster	NO	NO	YES
Source: Websites of MRT, HRT and RTS Slovenia *The Statute and the Ethical Code could be found on the web-site			

MRT's Programming Council is often non-transparent even to the media associations and non-governmental organizations that are trying to monitor the work of this body. During the heated debate open in the public about the responsibility of the MRT leadership regarding the unprofessional reporting on the intrusion into the Assembly and the violence against the MPs and journalists on 27 April 2017, the Programming Council decided to close the session for the public when this issue was discussed.<sup>54</sup>

"The argument was that the session had to be closed due to the sensitivity of the topic, so as to take away the pressure on the members of the Programming Council and the responsible editors. But in fact, this is impossible because those who attend the sessions in the public capacity are not entitled to a say. They can only keep silent and follow the session without any right to a reaction or voice", Vedat Memedalija says.<sup>55</sup> He, along with two other members, left the session, while the rest of the members adopted the decisions behind closed doors.

Unlike MRT, the **transparency of HRT and RTV Slovenia** is at a high level. They have functional websites that regularly publish all minutes of the Programming Council's sessions and other public documents related to the operation of the public service broadcasters. Additionally, from 2015, the sessions of RTV Slovenia's Programming Council are broadcast live on the website of the Slovenian public service broadcaster.

"All transcripts and reports are available on the pages of HRT. In this regard, progress has been made in comparison to some other times in the past", Helena Popović says.<sup>56</sup> When it comes to respecting the obligation of making the sessions public, the member of HRT's Programming Council, Maja Sever, says that "the sessions of the Programming Council are public, which makes the work of the council very transparent, however there is a possibility of having the so-called working sessions that are held without the presence of journalists. The frequency of these types of sessions depends on the Chairman of the Programming Council".<sup>57</sup>

<sup>54</sup> AJM, "MRT is hiding from responsibility for the manner of reporting about the incidents in the Assembly", 11 May 2017. Available at: <http://znm.org.mk/?p=3308>.

<sup>55</sup> Interview with Vedat Memedalija, editor in the daily newspaper Koha and a representative of the Association of Journalists of Macedonia (AJM) in MRT's Programming Council, 24 August 2017.

<sup>56</sup> Interview with Helena Popović, media expert and professor of communicology at the Faculty of Political Science at the University of Zagreb, 10 September 2017.

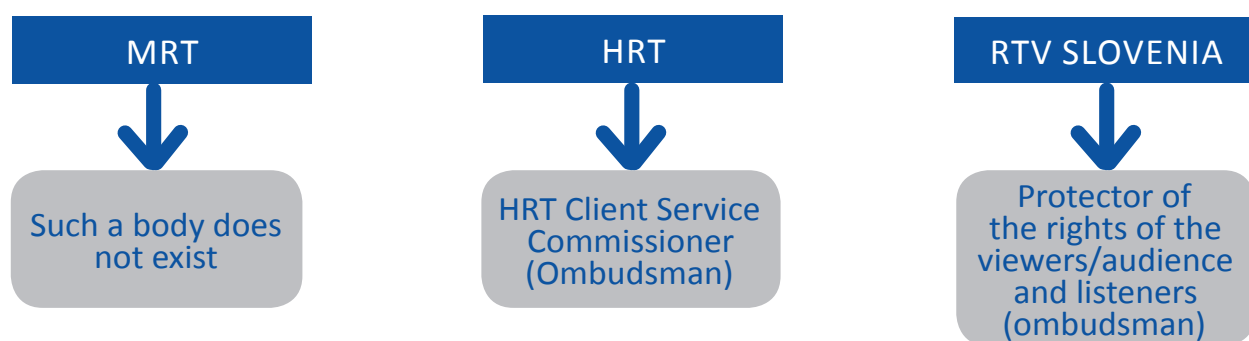
<sup>57</sup> Interview with Maja Sever, editor and member of HRT's Programming Council, 6 September 2017.

Closed sessions of the Programming Council are not characteristic for RTV Slovenia, but there are cases when such a solution had been made in a partial sense. “Several months ago, we had a situation when one part of the session, the part when the candidates for director of the public service were presented, was closed to the public, with the explanation that it was for the protection of personal data. This was a rather controversial decision that was not readily accepted, at least not by the expert, media and political circles, because it was not clear whether that decision was legally valid or whether it was a precedent that could be dangerous in the sense that it might lead to a reduction of the openness and transparency”, says the expert Marko Milosavljević.<sup>58</sup>

When it comes to **direct communication with the public** in Croatia and Slovenia, in addition to the Programming Councils that monitor the opinions and complaints from the citizens, there is also an Ombudsman appointed by the programming councils tasked with providing expert processing of the complaints and suggestions received from the citizens regarding the programme content. The Ombudsman is a kind of mediator between the Public Service Broadcaster and the citizens, and although (s)he has no power to make decisions, (s)he has an important advisory role not only in the PSB, but also in the general public.

In Croatia, (s)he is referred to as the “HRT Customer Service Commissioner” who is obliged to submit a report with respect to the remarks of the viewers/audience made on the basis of a prior expert analysis. In this context, according to Helena Popović,<sup>59</sup> there is scope for improving the methodology, structure and standards on the basis of which the analysis is conducted.

**Chart 2: Public Relations Bodies in PSB**



“In Slovenia, for 10 years now, there is a protector of the rights of viewers/audience, or an Ombudsman, which is a very important and useful institution. One can say that it is a type of a body of the Programming Council that greatly facilitates our work. Instead of discussing all the remarks in detail, the Ombudsman examines them in an expert manner with the editors, from an expert point of view, in the context of the code of ethics and programme standards, and then delivers a proposal or recommendations to us”, says Branka Petković.<sup>60</sup>

In Macedonia this category does not exist and the only body that should follow the opinions and complaints from the citizens and the public according to the law is the Programming Council. Still, given the absolute lack of functionality of the MRT’s website and the closed attitude of the Council in general, even with regard to professional civil society organizations interested in following its work, this function is only met on paper.

The inevitable conclusion is that MRT’s Programming Council is extremely non-transparent and inaccurate. In this sense, RTV Slovenia’s Programming Council is the most advanced, especially since as of this year, this body is obliged to submit a report on its own work as part of the annual report on the work

<sup>58</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.

<sup>59</sup> Interview with Helena Popović, media expert and professor of communicology at the Faculty of Political Science at the University of Zagreb, 10 September 2017.

<sup>60</sup> Interview with Branka Petković, member of RTV Slovenia’s Programming Council, 1 September 2017.

of the Slovenian Public Service Broadcaster for 2016.

Transparency and accountability are essential for maintaining a credible public service broadcaster that is primarily responsible to the citizens/public, and only then to the state/assembly. Hence, the creation of channels for communication with the public is of undisputed importance for every institution that wants to be called a Public Service Broadcaster. That institution must offer a “public arena” where not only politicians, interest groups or public figures, but ordinary citizens will be encouraged to express their opinion and expectations regarding the public service broadcaster.

In contemporary democratic societies, the public should be entitled to full transparency and accountability as to the manner in which the PSBs are organized and managed, the manner in which the public money is spent and the manner of which journalists perform their job. There is also a legitimate public expectation that there should be some impact on the PSBs, some feedback, especially in terms of how the PSBs competences are fulfilled. Independence, transparency and accountability are certainly a precondition for building trust with the public, which is an important source of legitimacy for the public service broadcasters.<sup>61</sup>

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<sup>61</sup> Wagner, M. and Berg, A. Legal focus: Governance principles for public service media, European Broadcasting Union website, 2015. Available at: [https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin\\_EN.pdf](https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin_EN.pdf)

## 4. CONCLUSION

The public service broadcaster could be truly independent only if it functions separately from the government and the centers of power, while at the same time being subject to effective oversight by internal governing bodies protected from political influence. It is in this respect that the PSBs of Macedonia, Croatia and, to some extent, Slovenia, have shown limited success in their efforts to defend themselves from external pressure. The managing structures of the PSBs in these countries, and the oversight body in this context, such as the Programming Council, failed to radically distance the PSBs from political control.

Although it has broad responsibilities and it can contribute to the programming independence, the quality of work and the PSB's accountability in front of the public, MRT's Programming Council functions as an extended arm of the state apparatus. The main reason behind this situation is the inadequate composition of the body dominated by members close to the ruling structure at the time of its establishment. This is due to the inadequate legal solution in relation to the current model with the specific authorized nominators, which are mostly state authorities or institutions under their control.

Apart from the risks of political influence during the election and appointment of the members, the main problem in Croatia is the limited competency of HRT's Programming Council whose role has been reduced to form over substance. And, when the Programming Council does not have a role in appointing the staff and approving the key annual documents and reports, then it turns into a debate forum without an actual power and ability to act.

It is therefore important for that supreme body, which should represent the wide range of social groups and interests, to have not only an advisory, debate role, but also the power and a say in someone's appointment or change, to be able to reject or approve the director's plan and thus achieve its goal, i.e. to have their conclusions taken into consideration and to have a serious approach in their implementation.

In this context, although it faces certain challenges, Slovenia is the closest to a more adequate realization of the function of the Programming Council, which also shows the greatest transparency and accountability in its work.

Taking into account the impact the public service broadcasters have on the public debate and the creation of the public opinion, the political and economic elites will always be tempted to influence them.<sup>62</sup>

Hence, it is not too easy to design effective safeguards to avert the pressure on the PSB and to prevent the manning of most of the positions in the supervisory bodies, in this context the Programming Council, with staff suitable for the governing authorities or dominant political parties. However, there are certain legal procedural safeguards that can contribute to the provision of a balanced and pluralistic composition of the Programming Council.

Judging from the Slovenian experience, the existence of a wide range of different stakeholders in society who nominate the members of the Programming Council, can be identified as a positive example. Furthermore, according to Brankica Petković,<sup>63</sup> in order to limit the political influence, we should be very cautious with respect to the number of members in the Programming Council appointed by the Assembly. The fact that even the representatives in the Programming Council nominated by the political parties in the Parliament of Slovenia are the result of proportional representation of proposals from all parties in the Parliament, additionally impedes full control of only one political party.

In that context, Marko Milosavljević<sup>64</sup> indicates to the need of the so-called, system of *Checks & Balances* in which no institution would have control over the majority of its members. "Simply, having in mind that we are talking about a young democracy, a system should be created in which all the main actors would have a say in the appointment of members, for example, the Assembly, the civil sector, the employees,

<sup>62</sup> Wagner, M. and Berg, A., Legal focus: Governance principles for public service media, European Broadcasting Union website, 2015. Available at: [https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin\\_EN.pdf](https://www.ebu.ch/files/live/sites/ebu/files/Publications/EBU-Legal-Focus-Gov-Prin_EN.pdf).

<sup>63</sup> Interview with Brankica Petković, member of RTV Slovenia's Programming Council, 1 September 2017.

<sup>64</sup> Interview with Marko Milosavljević, media expert and journalism professor at the Faculty of Social Sciences at the University of Ljubljana, 1 September 2017.



the President of the state or similar institutions, but in a manner in which none of them would have the final say. There should be some balance, and of course, the possibility to eliminate conflict of interest“, Milosavljević suggests.

Although in Macedonia the MRT' employees are not given such an opportunity precisely because of conflict of interest, still, the participation of employee representatives in the Programming Council of the PSBs of Croatia and Slovenia is assessed as an extremely valuable experience. Furthermore, a good practice in both countries is the legal provision according to which, rather than starting simultaneously, half of the members are appointed and start their four year mandates every two years, and in that way the possibility of having one political structure influencing all members of the body is being reduced.

Apart from the specific safeguards, the transparency of the process of appointing the members, as well as the political culture and critical public opinion that would respond to any attempt to establish political control over the PSB, are very important for the effective protection of the Programming Council's independence.

In order to ensure an independent public service broadcaster in Macedonia, we need reforms that should result from inclusive democratic processes involving all stakeholders in society, including the civil sector, whose influence should be key in these reform processes. However, in order to make actual changes in this regard, the system of values, as well as the culture of managing public resources, public institutions, and the state in general, must be changed.

## 5. RECOMMENDATIONS

1. The Ministry of Information Society and Administration should open a public discussion thus initiating a process of fundamental reform of PSBMRT. The reforms would tackle all aspects of the functioning of the PSB and would set the pillars for its further development, aiming to transform MRT into a modern European public broadcasting service.

2. With the changes in LAAMS, in the part referring to the MRT's Programming Council, the existing concept of authorized nominators of candidates for members in this body should be abandoned. The selection of members through a public competition has a greater potential to represent the different segments and interests in society and reduce the room for direct political influences.

3. Amendments to the LAAMS should anticipate an increase in the number of members of the Programming Council of MRT in order to enable a more adequate representation of the different segments and interests in the Macedonian society.

4. All stakeholders, the relevant ministry, the media regulator, the civil sector, the media experts, representatives of the academic community and the media industry, including MRT, should open a debate regarding the possibility that the Assembly of the Republic of Macedonia would not appoint all members of the public service broadcaster's Programming Council, but a part of them, and the appointment should be decided with a 2/3 majority. Moreover the possibility of direct participation of representatives should also be considered.

5. All stakeholders should open a debate on the possibility of extending the conflict-of-interest requirements and rules that are part of the current LAAMS, including the possibility to revise the ban on the participation of employees in the Programming Council, indicated as a positive example in Croatia and Slovenia.

6. All stakeholders should open a debate over the possibility of avoiding simultaneous appointment of all members of the Programming Council, thus enabling all members to serve their term together during the same four years, but rather to introduce the so-called "staggered term", that is, appoint at least half of the members in the middle of their colleagues' mandate in this body. This can strengthen the independence and continuity of the work, and thus avoid the situation of completely reestablishing the supervisory board after each election or change of government.

7. MRT should establish and develop channels and mechanisms for communicating with the audience (for example, create a dynamic website, appoint a person who will receive and review comments and suggestions from the audience, such as an internal Ombudsman, etc.), in order to enable greater involvement of the citizens in creating the programme offer.

8. In practice, the Programming Council should consistently implement the obligations provided for in the LAAMS and the internal rulebooks, and ensure transparency for its work and the results thereof. The announcements of the sessions and the agenda, the minutes of the sessions, the adopted decisions, as well as the positions of the members of the Council, the annual reports and work plans and all other documents have to be published on MRT's website. Information on the managing bodies, the composition of the management, the Supervisory Board and the Programming Council, as well as the decisions they make, should be made publicly available.

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Interview with Maja Sever, editor and member of HRT's Programming Council, 6 September 2017. (via e-mail).

## ABOUT THE AUTHOR

**Ljiljana Mitevska** is a media analyst with an MA in International Journalism at City University in London, UK.

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