

# MEDIA REGULATORY AUTHORITIES AND PROTECTION OF MINORS



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Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)

Funded  
by the European Union  
and the Council of Europe



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# **MEDIA REGULATORY AUTHORITIES AND PROTECTION OF MINORS**

**April 2019**

***Media Regulatory Authorities  
and Protection of Minors***

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*“Children are great imitators.  
So give them something great to imitate.”*





# Acknowledgments

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1 Kosovo\* – This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.



# 1. Introduction

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Within the Council of Europe and the European Union project “Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)”, several regional conferences were organised for media authorities on common topics and in order to address them jointly. These events, among other things, promoted regional cooperation in the areas of hate speech and the protection of minors from potentially inappropriate and harmful media content.

After a very successful preparation of the publication on hate speech: “Media regulatory authorities and hate speech” (2017), the participating national regulatory bodies from Albania, Bosnia and Herzegovina, Kosovo\*, Montenegro, North Macedonia and Serbia, with guests from Croatia proposed a second publication focusing on an equally important topic related to the protection of minors from harmful content. It was agreed that this publication would include information about significant cases that were dealt with by the regulators in the region in relation to the protection of minors. It was also agreed that one part of the publication should be devoted to the role of National Regulatory Authorities in this respect, including their legal and regulatory mandates.

As this proposal was accepted by the JUFREX team, this publication has been prepared, as a joint effort of representatives by the aforementioned National Regulatory Authorities, including that from Croatia, which is not a direct participant of this project, but whose contributions are also very valuable from the perspective of proximity within the entire region and shared linguistic and cultural context. Experiences of different National Regulatory Authorities facilitate meaningful and thoughtful interaction among them through examination of an issue that requires collaborative action and exchanges of best practice.

This publication is available in both electronic and print format, as well as in languages of all JUFREX countries. Within the framework of the JUFREX project, it will be shared with the representatives of national judicial branches. Furthermore, it will be widely disseminated to various stakeholders, including parliaments, academic institutions, self-regulatory bodies, journalists etc.

The aim of this publication is, among other things, to contribute to a wider understanding of the concept of protection of minors from harmful content in audio-visual media services, the role of National Regulatory Authorities in this area, the need to involve various stakeholders providing a safe environment, both offline and on-line, for the development of children and minors, and to offer a starting point in

terms of providing recommendations and mechanisms for the protection of minors, as well as to facilitate further efforts and initiatives. It should represent a useful and important tool in further activities of not only regulatory bodies, but within the discourse of wider societal stakeholders.

## 2. Protection of Minors – a task for all

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In today's unprecedented connected world, the majority of information is delivered to us by the media, in many forms. Media help us learn, understand, stay connected to other people and to the world in general, and engage in entertainment related experiences. Whether we like it or not, media have an extremely important role in the lives of our children. From birth, children are surrounded by the media – media and communication platforms and content are part of their environment, their family life, their fun and play time, their learning habits and social skill development.

Extensive research on media and children show that the media can have both a positive and negative impact on their development. The term protection of minors in the context of media is concerned precisely with ensuring that harmful content in the media does not damage the physical and psychological development of children and minors.

Since children are exposed to the media from the earliest age – beginning with the media consumption habits of parents, media behaviour of friends and peers, and school – the issue of the protection of minors from harmful media content needs to be addressed in all these different environments and therefore requires a wide, multidisciplinary approach and commitment. While it is the task of governments to create and ensure effective adoption and implementation of adequate laws and policies, the task of protecting the best interests of the child should engage all members of society – within the family, in schools and other institutions that provide care, education and other services for children, in different communities and at all levels of administration.

This chapter outlines some of the most important international legal instruments in this respect, serving as background and rationale for the need to implement measures aimed at protecting minors, while at the same time safeguarding one of the fundamental human rights, the right to freedom of expression – both that of children and the general public.

### UNITED NATIONS

The underlying document in the international legal system for the protection of the rights of the child is the **UN Convention on the Rights of the Child**<sup>2</sup>. As the first legally binding international instrument, it contains comprehensive standards for

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2 <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>, accessed on 6 December 2018.

the protection of children's rights and applies to all children, without discrimination. The Convention underlines the fact that children (defined in the Convention as everyone under 18 years of age) are a vulnerable group in society in need of special care and protection, and therefore obliges all parties to ensure such protection and care of children as it is necessary for their well-being, through appropriate legislative and administrative measures.

Amongst others, the Convention recognises the important role of mass media, both for children's freedom of expression and their ability to make their voice heard, for children's right to information and, above all, for quality of content which will promote their development and well-being. It also stresses the need for children to be protected against material that can harm their well-being. Significantly, the Convention deals with civil rights and freedoms of the child, including those in relation to the media. Article 12 of the Convention guarantees the child the right to express his or her views on matters affecting the child, while Article 13 determines the right of the child to freedom of expression. Article 16 states that no child shall be subjected to arbitrary and unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation, as well as that the child has the right to legal protection against such interference, which is also extremely important in media reporting. Article 17 recognises the important function of the media in disseminating information that positively affects children and guarantees them access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health<sup>3</sup>.

The potential harmful effect of the media, and particularly influences of children's exposure to violence on screen, has been widely researched and written about. In recent years, due to the fact that it was primarily through electronic media that potentially harmful content was made available to minors, specific legal safeguards have been adopted for the protection of minors. Just as many other aspects of regulation of audiovisual media services, the regulation in respect of protection of minors also has to be balanced with other important values of a democratic society, such as the right to freedom of expression. Thus, efforts to regulate content which is considered harmful to minors could potentially result in unwanted side effects on the freedom of expression of adults, and therefore stakeholders and governments need to act with caution. This becomes increasingly important in the area of classification of content on audiovisual media services, as will be discussed in following chapters.

## COUNCIL OF EUROPE

The legal basis for regulation of audiovisual media service providers is grounded in, first and foremost, the wording of Article 10 of the **European Convention on Human Rights (ECHR)**<sup>4</sup>. The right to freedom of expression is not an absolute

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3 In addition to the Convention, there are an abundance of international treaties on various aspects of protection of children as the most vulnerable category of society (e.g. in relation to child labour, trafficking, sexual abuse, exploitation etc.), but since they are not in direct correlation with the topic of this publication, they will not be mentioned specifically.

4 <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>, accessed on 6 December 2018.

right. Since it carries with it duties and responsibilities, Article 10 of the ECHR – in addition to guaranteeing the right to freedom to receive and impart information and ideas without interference by public authority – prescribes that the exercise of the right to freedom of expression, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary<sup>5</sup>.

Another significant provision for the protection of children’s rights is Article 8 of the ECHR, which guarantees the right to respect for private and family life and is often applied in cases where children are concerned. This right also comes with safeguards – interference by a public authority with the exercise of this right is permitted in cases prescribed by law, when is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

A particularly prominent area of the Council of Europe’s work in this field is the protection of children and minors in the digital environment. In this respect, the **Convention on Cybercrime**<sup>6</sup> should be mentioned, establishing a common approach to the criminalisation of offences related to computer systems and aims to make criminal investigations concerning such offences more effective. According to this convention, all conduct relating to child pornography must be established as a criminal offence.

**The Council of Europe Strategy for the rights of the child (2016–2021)**<sup>7</sup> focuses on children’s rights on the internet. It has been recently reinforced by the adopted **Recommendation CM/Rec(2018)7 of the Committee of Ministers to member States on Guidelines to respect, protect and fulfil the rights of the child in the digital environment**<sup>8</sup>. On the one hand, the Recommendation promotes the rights of the child in the digital environment, such as the right to education, right to be heard and to express their views, while on the other hand it stresses their right to protection from violence, exploitation, and abuse.

Another area which has been raising concerns for a number of years and is becoming more and more relevant for regulatory authorities is the protection of minors in relation to social networks. **Recommendation CM/Rec(2012)4 of the Committee of Ministers to member States on the protection of human rights with regard**

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5 For more details on this, please refer to Council of Europe’s publication: “Media regulatory authorities and hate speech” (2017), available at: <https://edoc.coe.int/en/media/7431-media-regulatory-authorities-and-hate-speech.html>.

6 <https://www.coe.int/en/web/cybercrime/the-budapest-convention>, accessed on 6 December 2018.

7 <https://www.coe.int/en/web/children/children-s-strategy>, accessed on 6 December 2018.

8 [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808b79f7](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808b79f7), accessed on 6 December 2018.

to social networking services<sup>9</sup> contains a chapter on protection of children and young people against harmful content and behaviour, in which it is recognized that social networking services play an increasingly important role in the life of children and young people, as part of the development of their own personality and identity, and as part of their participation in debates and social activities. The Internet exposes children to a wealth of opportunities, but also risks including cyberbullying, data protection issues, online grooming, cybercrime and child sexual abuse. In this non-binding document, Member States are called to take appropriate measures to ensure the safety of children and young people and protect their dignity, in particular by engaging with social networking providers to take measures such as providing clear information about content or content-sharing, developing editorial policies so that relevant content or behaviour can be defined as “inappropriate” in the terms and conditions of use of the social networking service, as well as setting up easily accessible mechanisms for reporting inappropriate or apparently illegal content or behaviour posted on social networks. However, it is also recognized that any intervention should guarantee procedural safeguards and the right to freedom of expression and access to information, as well as that parents, carers and educators should play a primary role in working with children and young people to ensure that they use these services in an appropriate manner – proving once again that the protection of minors is indeed a task for all, and that significant efforts should be directed towards education and awareness-raising.

## EUROPEAN UNION

At the level of the European Union, the regulation of audiovisual media services is provided for by the **Audiovisual Media Services Directive (AVMSD)**. It should be pointed out that, at the time of preparing of this publication (December 2018), the revised AVMS Directive only recently entered into force, with the deadline of 21 months for its transposition into national legal frameworks. Therefore any mention of the AVMS Directive made in this publication, unless stated otherwise, refers to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services, as this is the Directive which is currently in force until the revised Directive has not been transposed by the Member States.

The underlying rationale behind regulation of audiovisual media services is the obligation to safeguard certain public interests, which include those related to protection of minors. Therefore some of the most important aspects of the AVMSD are related to the protection of minors from inappropriate content. As expressed by Recital (60), *“Measures taken to protect the physical, mental and moral development of minors and human dignity should be carefully balanced with the fundamental right to freedom of expression as laid down in the Charter on Fundamental Rights of the European Union. The aim of those measures, such as the use of personal identifica-*

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9 [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805caa9b](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805caa9b), accessed on 6 December 2018.



*tion numbers (PIN codes), filtering systems or labelling, should thus be to ensure an adequate level of protection of the physical, mental and moral development of minors and human dignity, especially with regard to on-demand audiovisual media services. The Recommendation on the protection of minors and human dignity and on the right of reply already recognised the importance of filtering systems and labelling and included a number of possible measures for the benefit of minors, such as systematically supplying users with an effective, updatable and easy-to-use filtering system when they subscribe to an access provider or equipping the access to services specifically intended for children with automatic filtering systems.”*

The AVMSD’s general approach, a two-tier regulatory system with linear audiovisual media services being subject to stricter provisions than video-on-demand services, applied also to the protection of minors: provisions for the protection of minors from traditional TV services to ‘on-demand audiovisual media services’ through a system of graduated regulation. The Directive distinguished between two basic categories of potentially harmful content for minors: content that might seriously impair, and content that is likely to impair their physical, mental or moral development – but does not define key concepts such as ‘minors’, ‘might seriously impair’, ‘likely to impair’ or ‘pornography’ which are left as a matter for Member States<sup>10</sup>. There are only some vague guidelines in this regard, including those given by the European Council – “... content that is legal, but liable to harm minors by impairing their physical, mental or moral development...” – and by the European Commission – “... content which adults responsible for children (parents or teachers) consider to be harmful to those children<sup>11</sup>”. Since the protection of minors is typically a sensitive area characterised by the diversity of cultural perceptions, Member States are permitted to implement stricter provisions for the audiovisual media services under their jurisdiction. These issues are discussed in more depth later in the publication.

There are other, not less important provisions of the AVMSD, that deal with the protection of minors as consumers, having in mind their special vulnerability in this respect. The Directive thus recognises the need to protect children, who – due to their age – may not be able to understand the commercial context in which advertising operates, from exposure to unsuitable commercial communications, particularly those relating to unhealthy food and alcoholic drinks.

The AVMSD is complemented by two Recommendations on the protection of minors, which apply to the content of audiovisual and information services made available to the public through all forms of delivery, from broadcasting to the Internet: the 1998 **Recommendation of the European Council on the development**

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10 However, possible harmonisation of approaches has been a matter of consideration at the EU level on numerous occasions. Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee of 19 July 1999 on the Study of Parental Control of Television Broadcasting underlines the following: “A harmonised approach to rating audiovisual content is ruled out by the great cultural diversity which characterises the European audiovisual market. However, drawing up common descriptive criteria would allow audiovisual content to be described in similar way, whilst leaving the evaluation of such content to the competent national and regional authorities. This would facilitate comparability between the rating systems in operation in Member States...”

11 For more details, please refer to:  
<https://ec.europa.eu/digital-single-market/en/protection-minors-avmsd>.

of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity<sup>12</sup>, and the 2006 Recommendation on the protection of minors and human dignity in audiovisual and information services<sup>13</sup> intended to respond to new challenges from mobile and fixed Internet technologies and new data services. In 2011, the Commission published a report on the application of these two Recommendations titled “**Report on Protecting Children in the Digital World**”<sup>14</sup>. The Report found that “A policy mix, with a significant component of self-regulatory measures, seems best suited to address in as flexible and responsive a way as possible the convergence between platforms (TV, PC, smartphones, consoles, etc.) and audiovisual content”.

In addition, the European Commission’s **2010 Digital Agenda** contains actions to further enhance the safety of minors on-line, referring to reporting points for offensive or harmful content, sharing of best practice between Member States, and encouraging further self-regulation.

In 2016, the European Commission started a process of revision of the AVMSD in order to adapt it better to the changes in audiovisual market, media consumption and technology, especially the ever-increasing convergence between television and services distributed via the internet and the emergence of new players (in addition to video-on-demand providers, these include video-sharing platforms hosting user-generated content) offering audiovisual content via the internet and competing with the same audiences as the traditional broadcasters. This materialised in its *Proposal amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities*, which after two years of legislative process became the revised AVMSD (*Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services*<sup>15</sup>) and entered into force on 19 December 2018, with a deadline of 20 September 2020 for Member States to transpose the text in their respective national legislation.

The revised AVMSD aims at “better protection of minors against harmful content in the online world: the new rules strengthen the protection on video-on-demand services and extend the obligation to protect minors also to video-sharing platforms, which need now to put in place appropriate measures”<sup>16</sup>. Instead of a two-tiered approach to protection of minors, it introduces a new approach, applicable to all audiovisual

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12 <https://publications.europa.eu/en/publication-detail/-/publication/54fec083-08ad-461b-8c59-6fad109f5e16/language-en>, accessed on 7 December 2018.

13 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A124030a>, accessed on 7 December 2018.

14 <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52011DC0556>, accessed on 7 December 2018.

15 <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>, accessed on 7 December 2018.

16 <https://ec.europa.eu/digital-single-market/en/revision-audiovisual-media-services-directive-avmsd>, accessed on 10 December 2018.

media services and correlating with the level of harm, i.e. prescribing that measures of protecting minors from audiovisual media services which may impair the physical, mental or moral development of minors must be proportionate to the potential harm of the programme. Again, it is up to Member States to evaluate the levels of harm and appropriate measures (aside from gratuitous violence and pornography, which are “subject to the strictest measures”), but the emphasis is put on providing sufficient information to viewers by means of a system describing the potentially harmful nature of content. As mentioned, the revised text extends the scope of regulation to video-sharing platforms, which will – in terms of protection of minors – also have to take appropriate measures to protect minors from programmes, user-generated videos and commercial communications which may impair their physical, mental or moral development. These measures need to be proportionate to the level of harm (again, the most harmful content shall be subject to the strictest access control measures) and may include a range of tools such as reporting, flagging or rating tools, age verification systems, parental control systems, procedures for handling and resolution of users’ complaints, as well as media literacy measures and tools. Empowering users – parents and guardians in particular – to actively engage in (and make informed decisions about) their children’s exposure to media content, seems to be particularly emphasised by the new text, along with the use of self – and co-regulation, all of which is in line with the shift in regulation that inevitably needs to follow the shift in media landscape and consumption.

Furthermore, an important addition for both audiovisual media services and video-sharing platforms is a specific reference to the protection of children’s data: in Article 6a, the revised AVMSD stipulates that personal data of minors collected or otherwise generated by media service providers “*shall not be processed for commercial purposes, such as direct marketing, profiling and behaviourally targeted advertising*”<sup>17</sup>. Ubiquitous computing via mobile devices, social networking platforms such as Facebook, video sharing platforms such as YouTube, etc., and the increasing production of “big data” are seen as big threats for children’s online safety (identity theft, misuse of personal data, peer discrimination, cyberbullying, etc.)

With the adoption of the General Data Protection Regulation (GDPR), the European Union paved the way for active protection of personal data of minors online. GDPR in section “Conditions applicable to child’s consent in relation to information society services” requires parental consent before internet service providers can process the personal data of children under 16 years of age, with: “*Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child*”.<sup>18</sup> Both the GDPR and the new AVMSD are designed to try to ensure these threats are avoided by requiring online media platforms to commit effective protection of user’s personal information and to publish the terms of the tools and services used in such a way that everyone, including children, can comprehend.

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17 Ibid.

18 Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN>, accessed on December 18, 2018.

Once again, it should be stressed that the protection of minors is an inter-disciplinary concept requiring the involvement of various stakeholders and actors, and the European regulatory framework also recognises that protection of minors cannot be effective or comprehensive without parental responsibility, self- and co-regulation and concerted media literacy efforts. This reasoning includes the paradigm of European and international cooperation in order to enable minors to make responsible use of online audiovisual and information services and to encourage a more systematic coordination between governments, industries and stakeholders so as to improve awareness among parents, educators and teachers about the potential of new services.

### 3. Protection of minors and the role of National Regulatory Authorities

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The mandate and role of National Regulatory Authorities (NRAs) with regard to the protection of minors heavily rely on international legal instruments, more or less directly translated into their statutory obligations, but also on their general task of protecting the public interest and vulnerable members of society, while safeguarding the right to freedom of expression.

Of course, NRA remits remain today mostly limited to regulation of “traditional” television and radio. However, children, minors and the Millennial generation predominantly get their audiovisual content online. They use various mobile devices and their inherent need is uninhibited access to the internet. Issues related to the need to regulate traditional audiovisual services in terms of protection of minors come into question taking into consideration the statistical data that proves that minors and children are more likely to be found on-line than in front of TV screens or listening to FM radio. Statistics prove this to be the case throughout Europe; according to European Audiovisual Observatory report: The Protection of minors in a converged media environment, IRIS Plus 2015–1:

*“Until recently the main gateway for audiovisual content at home was the TV set and that remains the preferred device for watching audiovisual content: for example, in France, during the first semester of 2014, children between the ages of 2–14 years had a monthly Internet video consumption of 4 hours and 2 minutes on average, compared to the daily average of 2 hours of watching TV for children between the ages of 4–14 years. However, Internet use by children does not only entail watching videos, but also reading webpages, interacting on social networks, chatting, etc. According to the EU Kids Online survey: 9–16-year-old Internet users spend 88 minutes per day online, on average; 93% of 9–16-year-old users go online at least weekly (60% go online every day or almost every day); The most common location for Internet use is the home (87%), followed by school (63%); 49% go online in their bedroom and 33% go online via a mobile phone or handheld device; 59% of 9–16-year-olds have a social networking profile – including 26% of those aged 9–10, 49% of those aged 11–12, 73% of those aged 13–14 and 82% of those aged 15–16; Among social network users, 26% have public profiles.”<sup>19</sup>*

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19 Report available at: <file:///U:/CoE/protection%20of%20minors/IRIS%20The%20protection%20of%20minors%20in%20a%20converged%20media%20environment.pdf>, accessed on August 14, 2018.

Evidence shows that children watch less traditional, linear TV and more and more on-demand TV and online videos. However, the previous AVMSD protected them more on TV and less in the online world – a concern that was addressed by the revised Directive, results of which are yet to be discussed and measured. Along with the changes in technology, market, children’s media use, but also in audience expectations regarding regulatory protection, the role of NRAs inevitably needs to adapt to these trends and evolve, which will surely be the task for NRAs in the forthcoming period of transposing the revised AVMS Directive. In that respect, it is of vital importance for NRAs to examine their modus operandi and seriously and dedicatedly adapt their responses to the needs of contemporary society. The challenges presented before NRAs are actually long-awaited opportunities and should be embraced with vigour, adaptability, cooperation, innovation and openness.

Despite the fact that minors are technologically savvy and possessing, in many cases, much more technological skills than their parents, not to mention other older generations who are involved and responsible for their protection, children are still children, vulnerable and in need of specific guidance and help. Their protection is increasingly significant considering the increased depiction of violence, online bullying, pornography, the sexual abuse of children, hate speech, stereotyping, excessive marketing, etc. in today’s world.

To go back to the regulatory requirements of the protection of minors, which was one of the cornerstones of the AVMS Directive, the previous text stipulated regulatory issues to be taken into account and regulated, which, in general terms, can be summarised in the following table and detailed further in the paragraphs that follow:

Table 1: AVMS Directive general requirements

	Linear services	Non-linear services
Content which “might seriously impair” minors	Banned	Permitted with protection
Content which is “likely to impair” minors	Permitted with protection	Permitted without protection

## 1. CONTENT WHICH MIGHT SERIOUSLY IMPAIR MINORS

The ban on content which might seriously impair the physical, mental or moral development of minors, with it permitted in on-demand services (but only to be made available in such a way that minors will not normally hear or see it – such as by the use of PIN codes or other age verification systems) was the first layer of protection.

However, there is no clear-cut definition of what programme segments might constitute content which might seriously impair minors. In this respect, cultural tradi-

tions as well as moral beliefs are important to consider. The ban as envisaged by the AVMS Directive related to, for example, gratuitous violence, depiction of extreme forms of devious sexual behaviour and similar, which are certainly non-exhaustive examples of unacceptable content. As with any other directive, each Member State is free to impose stricter rules over and above the basic requirements, particularly taking into account the core issues such as cultural elements of each society, moral beliefs and sensitivities, etc.

The following table summarises the main elements applied in regulatory requirements for the content that might seriously impair the physical, mental or moral development of minors.

Table 2: Elements of content that “might seriously impair”

	“Might seriously impair”
ALB	Especially containing pornography or depicting extreme and gratuitous scenes of violence
BIH	Includes, but not limited to displays of brutal and extreme violence which is not justifiable by context; pornographic content with elements of violence or extreme sexual fetishes and similar
CRO	Particularly programmes that involve pornography or gratuitous violence
XKX <sup>20</sup>	Programmes with pornographic content or extreme violence
MKD	Especially programmes containing pornography or gratuitous violence
MNE	Programmes containing pornography or whose content emphasise and normalise violence, drug addiction or similar forms of criminal conduct, as well as programmes exploiting credulity of viewers or listeners
SRB	Pornography, scenes of brutal violence, without particular programme-related or artistic justification; and other programme material likely to gravely impair the physical, mental or moral development of minors

Most Member States, candidate countries and those obliged to transpose EU regulations by agreements on Association and Stabilisation have transposed the wording of the previous AVMS Directive in this respect, ensuring the ban of such content.

However, practical implementation of these provisions in most cases are on a case-by-case approach, as most countries do not have a clear definition of such content, but predominantly refer to aforementioned extreme forms of programming.

Some participating countries have defined elements such as gratuitous violence and pornography, as indicated in the following two tables.

20 Abbreviation code currently used for Kosovo\*. The code XK (XKX) is used for practical reasons and is not an official code. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Country\\_codes/fr](https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Country_codes/fr).

Table 3: The definition of “pornography”

	“Pornography”
ALB	No
BIH	Content with detailed depictions of sexual activities whose primary purpose is to raise sexual excitement or stimulation of the audience by showing of explicit sex scenes, including penetration, as well as scenes of sexual organs during sexual intercourse
CRO	No
XKX	Programming content, showing in a clear and open manner the human sexual organs or sexual act
MKD	No
MNE	Explicit portrayal of genitalia or sexual intercourse without particular programming or artistic justification
SRB	Explicit depictions of sexual organs or sexual intercourse without any particular programme-related or artistic justification

Table 4: The definition of “gratuitous violence”

	“Gratuitous violence”
ALB	No
BIH	No
CRO	No
XKX	Intentional use of the physical, mechanical or any other force to harm, injure or mistreat
MKD	Dissemination of textual, verbal and visual messages, ..., which glorify physical, verbal or psychological forms of sadism or similar types of violence in-and-for itself, and which cannot be justified either by the context of the genre or by the motives of the dramatic action of the broadcasted programme
MNE	No Sexual violence: behaviour forcing another person into sexual intercourse or touching their intimate parts by using force or coercion
SRB	Grave violence – conduct involving use of force resulting in the deprivation of life the or infliction of grave injuries or grave suffering on the victim (e.g. cruel or inhuman treatment, mutilation of people or corpses, sadistic acts), and conduct resulting in numerous casualties or widespread material destruction; Sexual violence – conduct involving use of force or threat to coerce another individual to engage in sexual intercourse or unwanted sexual contact against his or her will



## 2. CONTENT WHICH IS LIKELY TO IMPAIR MINORS

No ban on such content, with the requirement to ensure that such content, including trailers, is to be transmitted within a determined time with appropriate age classification marks or protected by any technical measure (e.g. encryption) is another very important aspect of protection. This could be done by the use of PIN codes or other, more sophisticated age verification systems. This is to provide for the first tier of protection of minors; that minors will not normally hear or see them. If they do, such responsibility lies elsewhere, with parental control and similar.

This represents one form of regulatory control, which proves the need to have concerted and organised efforts in order to effectively work on the protection of minors. It means that citizens should be empowered and enabled to make their own decisions about what content their children will be exposed to or not, as long as they, the citizens, are provided with reasonable information and warnings as to particular programmes.

An excellent example of this is the classification system for audiovisual media services. In many European countries, the transposition of these provisions included referral to previously established national classifications systems already in place – for example, the British Board of Film Classification (BBFC), a non-governmental organisation founded by the film industry and responsible for the national classification of films and video works. However, this time around, there was a need to balance the freedom of expression and information for Video on Demand (VoD) services as well, while not lowering excessively the level of protection of minors on these services compared to the stricter approach adopted for broadcasting services. The predominant result was that such content is permitted on VoD services with some form of access protection.

The table below indicates the main elements used in regulatory requirements for content that is likely to impair the physical, mental or moral development of minors.

Table 5: Elements of content that is “likely to impair”

	“Likely to impair”
ALB	Scenes of significant psychological and physical violence, sex, and use of inadequate language, lexicon and communication ethics
BIH	Include, but are not limited to scenes of coarse violence, sex, profane language and scenes or scenes of abuse of alcohol and drugs
CRO	Include all types of programmes with scenes depicting explicit physical and/or verbal violence, scenes which may be deemed frightening of deaths or wounding, sex and sexual exploitation, vulgar language and scenes, abuse of tobacco, alcohol, narcotics, gambling, betting and other scenes

XKX	Content with physical, verbal, gesticulation, emotional, sexual violence or depicted via special effects. Content with sexual scenes may be shown within the context of scientific, educational, documentary or informational programming. Content and programming containing gambling, fortune telling, card reading, psychic services and similar which are not scientifically proven.
MKD	Descriptions, scenes or representations of violence, eroticism, sexual conduct prohibited by law, indecent (vulgar) language, suggestible forms of behavior which are easy to imitate and are dangerous to health and safety, behavior offensive to human dignity, etc.
MNE	Violence and its consequences; sexual violence; human nudity; sexuality; horror scenes; smoking and abuse of narcotics, alcohol or other harmful substances; dangerous behaviour; discrimination or offensive behaviour
SRB	Violence and its consequences; sexual violence; nudity; sexuality; fear-inducing scenes; smoking and/or abuse of psychoactive substances, alcohol or other harmful substances; dangerous conduct; discriminatory treatment; indecent conduct

In some of the countries of the region of South-East Europe, the system of classification has been introduced by the regulatory authorities, predominantly due to a lack of previously established of industry classification systems. These provisions refer to the sole responsibility of audiovisual media service providers for the classification system, while the categories in terms of age limits together with watershed time slots are provided for. This includes acquired programmes that might already have classification originating from the country of production. In such cases, audiovisual media services must examine and adjust classification in accordance with the provided provisions.

The following table provides information on watershed and classification systems applied in participating countries.

Table 6: Watershed in participation countries

	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	0:00	1:00	2:00	3:00	4:00	5:00	6:00	
ALB													all ages / parental control			scenes of violence, sex or inappropriate language									
BIH														12+		16+					18+				
CRO																15+					18+				
MKD																12+					18+				
MNE																					18+				
XKX																									
SRB																									

\* may be broadcast only at times when it may be objectively expected that children are following the programme in the presence of their parents, given their usual activity schedules (e.g. the time they leave for school, workdays/ non-work days, school holidays, usual working hours, et al).

The actual decision as to the time of transmitting of content which is likely to impair minors is to be made by the audiovisual media service provider, based on the following elements:

### **a) Scenes of violence and consequences of violence and dangerous and harmful behaviour**

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Issues to consider here include the examination of whether the violence, consequences of violence or violent behaviour, including extreme forms such as suicide and usage of various weapons, can be easily copied and adopted by minors in their conduct and which can be harmful for the health and security of people. It is, in such instances, important to consider whether such behaviours are presented with positive connotations and/or depicted as socially acceptable behaviours or even suggested as means and ways to deal with problems and conflicts.

It is equally important to consider characters depicted as violent in programmes, since the behaviour of violent figures who may appeal to audiences can be experienced as legitimate. Sympathetic characters can, to a large extent, advertise different notions of violence which can be copied and justified as successful or non-consequential behaviour, or perceived as correct, exemplary and copy-worthy behaviour. In cases of inherent personal risk, as with some members of audience, especially minors, perception of violent behaviour can be accepted as models for behavioural repertoire. A positive movie character is never punished for their violent behaviour, but is rewarded, and this provides for an excellent copy model for minors, especially certain age groups of minors, who are unable to perceive the notions of behavioural causes and consequences. Children, until a certain age, are not able to contextualise fiction; the context in which they live and in which they are not movie characters. Similarly, positive characters who suffer from violence receive audience compassion, while non-sympathetic characters get dissociative reactions, justifying violence against them. Within this realm, children do not question the righteousness of a “good” character.

Equal consideration ought to be given to whether minors are shown as victims of violence. These situations are considered especially difficult, with equally important consideration of the location of violence. Especially problematic are those placed in homes, schools and similar environment, which children normally consider safe.

Finally, the use of special effects, special zooming techniques, music, make-up, etc., in order to induce fear in an audience are also important to consider, as they can enhance the negative consequences on minors and children.

### **b) Misuse of alcohol and drugs**

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Alcohol and drugs consumption is especially problematic for adolescents, which may be a turbulent psychological, biological and developmental period minors go through. Adolescents often feel misunderstood or marginalised, and, coupled with possible inadequate behavioural patterns and/or defense mechanisms, could, abet-

ted and encouraged by audiovisual media services which include alcohol and drugs, lead to consumption of these substances by minors.

Alcohol and drugs consumption is not rare these days, with age limits being gradually adjusted. One should consider minors in this respect, especially those who are shy, insecure and lacking in defense mechanisms. The portrayal of drug-use in a positive context, such as cure-all tablets or heavier drugs, is one of the ways to present the misuse of such substances.

### **c) Inappropriate and vulgar language**

As with other elements considered, the use of language, especially inappropriate and vulgar language, is important to take into consideration, as it represents a copy model for minors. It is often the case that audiovisual media services, especially fiction motion pictures, series, reality programmes etc. actually serve as the basis for the placement and adoption of popular language phrases, becoming new and ‘cool’ ways of linguistic expression in minors. An abundance of vulgarities and inappropriate language can pave the way for such communication to become a natural and even desired and popular way of expression.

### **d) Nudity and sexual acts**

Such programmes can be harmful to children and minors, as they can invoke sexual fantasies that might not be applicable to realistic scenarios. These can be stimulating to adolescents in need of sexual experiences, which, if practiced too early and without proper counselling, can lead to unwanted teenage pregnancy, problems in reproductive health and similar, with far-reaching consequences.

These elements should be taken into consideration from the perspective of context in which they are portrayed in audiovisual media services, coupled with consideration of programme genre and target audience, making distinctions between, for example, educational, historic or comic context, critical depiction of harmful behaviour or indications related to danger and harmful behaviour.

It is of crucial importance that, in consideration of the above,, audiovisual media service providers decide on the appropriate time of broadcast/transmitting of such content, on a case-by-case basis. Appropriate classification of content only works if placed within a specific time-slot, as provided for in relevant rules. It is also equally important to not classify (as well as not “over-classify”) content which does not have elements which could be detrimental for minors. This is important from the point of view that classification of content serve those who are ultimately responsible for minors: parents and guardians. Also, the inclusion of classification marks in content that does not contain images and scenes that could impair the physical, mental or moral development of minors is misleading and should be avoided. It is precisely due to the fact that protection of minors from harmful content is inter-disciplinary and requires involvement of many stakeholders (parents and minor’s guardians being at the forefront) that information on content should be accurate.

When it comes to VoD services, as described above, classification obligation relates to catalogues of services, while most of such content can be transmitted, with the obligation to provide some sort of technical protection mechanisms, like PIN numbers or similar.

Audiovisual media service providers at times articulate certain difficulties in executing classification systems, which might result in varying results and ultimately create confusion for audience members. These are reasonable assertions. Sometimes there is an obvious lack of understanding within the industry as to how the classification of potentially harmful content should be appropriately carried out. This relates to both the understanding of why certain content might be harmful for minors (including the importance of context, cultural aspects, etc.) as well as an understanding of the process of classification (assuming editorial responsibility, planning, etc.).

Many regulatory authorities throughout Europe, including the ones taking part in JUFREX project, have produced recommendations or guidelines on various aspects of protection of minors, such as age classification, scheduling, labelling, or potentially harmful elements such as violence, offensive language, fear, etc., which apply to all content. Additionally, some examples of useful tools in helping to implement provisions related to classification system is preparation of expert's studies related to the influence of programmes on various minor's age groups, as is the case in Bosnia and Herzegovina, prepared by academic development psychologists, as complementary to guidelines for implementation of relevant rules, prepared by the NRA itself. Additionally, it is recommended for NRAs, when in situation to deliberate and ultimately decide on possible breaches of such provisions, to consult experts in this field, such as using contractual agreement with development psychologists, as is the practice found in this region as well.

Still, there is a reoccurring need for developing a uniform system of classification, whether via developing a database or some other practical tool which would enable easy and straightforward identification of potentially harmful elements in certain programme content, thus making it easier for the audiovisual media service providers to ultimately make an editorial decision on whether the content in question could be harmful to minors and if so, how to properly classify it. Additionally, it should be emphasised that classification system may be adopted either by NRAs or the industry itself. What is of paramount importance is the provision for full inclusiveness in the process of deliberation and decision-making of classification systems, taking account of all factors which ultimately shape the outcome, such as the cultural and historic elements of any given society. This is not to be mistaken for an argument which could be used to jeopardise the right to freedom of expression but balanced against the needs to protect the minors.

There are many ways to achieve a uniform and effective classification system for audiovisual media services. An excellent example of such a system can be found in the Netherlands, where a very successfully implementation of the classification system has been developed by the civil society organisation the 'Netherlands Institute for the Classification of Audio-visual Media' – NICAM and is fully supported and

endorsed by the regulatory authority of the Netherlands (Commissariaat voor de Media – CVDM). Under the auspices of NICAM a system is run under the name Kijkwijzer, a system that consists in a combination of age recommendations (5 categories: AL – 6 – 9 – 12 – 16) and content descriptors (6 categories: violence – fear – sex – discrimination – drug and alcohol abuse – coarse language) . This effective tool is also a great example of a self-regulatory mechanism for the classification of content, widely supported by the industry<sup>21</sup>.

The main point that should be stressed in this context is volunteerism, which relates directly to the issue of self- and co-regulation, an important aspect of this topic, discussed further in the publication. What is important to stress is that all interested parties should work towards developing and maintaining a uniform and efficient system, including implementation which results in all audiovisual media service providers voluntarily agreeing to adhere to it. In effect, and due to the fact that many programmes that might fall under the categories of some form of harmful content for minors are seen and followed throughout this region, joint efforts and cooperation, including preparation of this publication are of pivotal importance.

With this in mind,, the need and importance of inter and transnational cooperation between NRAs is additionally emphasised, relating to, for example, jurisdictions over certain content, but also relating to issues of classification, which is especially important in this region, where most or many programme content is available freely throughout the region, and considering the historic and linguistic closeness of audiences. Equally, the NRA role with regard to media literacy, including efforts in raising awareness on issues pertaining to the protection of minors is also valid. Hence, continued cooperation of NRAs among themselves and the inclusion of all stakeholders throughout the region remains crucial and vital for further developments and improvements in this regard.

The following table summarises the measures in relation to requirements regarding the protection of minors.

Table 7: Protection measures

	Might seriously impair		Likely to impair	
	linear	non-linear	linear	non-linear
<b>ALB</b>	conditional access or encrypted broadcasting pornography: technical protection + not permitted during children's programmes time slot	encryption pornography: conditional access and parental control devices	specific time slot and warning labels, or technical measures	n/a

21 For more information, please refer to: <https://www.kijkwijzer.nl/about-kijkwijzer>.

<b>BIH</b>	prohibited	technical protection + divided from other content as a separate part of the catalogue	technical protection or appropriate scheduling and classification of content pornography: technical protection	graphic identification of categorisation in the catalogue 18+: technical protection or watershed pornography: technical protection + divided from other content as a separate part of the catalogue
<b>CRO</b>	prohibited pornography: permitted with technical protection	technical protection	technical protection or appropriate scheduling and classification of content	graphic identification of categorisation in the catalogue
<b>XKX</b>	prohibited	technical protection	technical protection or appropriate scheduling and classification of content pornography: permitted with technical protection	n/a
<b>MKD</b>	prohibited pornography: permitted with technical protection	technical protection	technical protection or appropriate scheduling and classification of content	graphic identification of categorisation in the catalogue
<b>MNE</b>	prohibited	technical protection	appropriate scheduling and classification of content	technical protection
<b>SRB</b>	prohibited pornography: only if accessible within services with conditional access, PIN coded or similar + labelled 18+	pornography: conditional access + labelled 18+ divided from other content as a separate part of the catalogue	technical protection or appropriate scheduling and classification of content	graphic identification of categorisation in the catalogue 18: technical protection or watershed

## **e) Programmes for and including minors**

Children and minors are some of the best and most beautiful parts of this world and everyday life. Their involvement and participation in programmes usually results in content that warms the hearts of adults. Adorable features of kids in programmes are normally affectionate, uplifting and very pleasing. However, children are more influenceable, less critical and therefore more vulnerable than adults since they have little experience and consequently insufficiently developed frames of reference to guide their judgment. Hence, there should be in place certain beacons and/or restrictions when it comes to inclusion of minors in programmes.

First and foremost, there should be a general prohibition on any kind of abuse of minors in audiovisual media services, coupled with a prohibition of the use of minors for political purposes. Restrictions can further apply to the need for conditional participation of minors in audiovisual media services by requirements for the consent of parents, guardians or other legally responsible persons. These conditions normally do not apply in cases where minors are exclusively an audience which does not participate directly in the programme content, to recorded materials that serve as an illustration and do not jeopardise the dignity of minors, as in the recordings of minors as bystanders, etc.

When it comes to direct participation of minors in audiovisual media services, it should always be in such a way so as not to cause them anxiety or fear, or impair their physical, mental and emotional development and dignity, regardless of whether the minor himself, or their parent or guardian or another legally responsible person gave consent. Considering their age, naiveté and susceptibility, minors should never be questioned on private family matters, or on topics that may be beyond their comprehension.

In content primarily intended for minors, restrictions centre around prohibition of consumption of tobacco and tobacco products, alcohol and drugs, unless it indicates their harmfulness. Similarly, in content primarily intended for minors, all forms of violence or dangerous behaviour that minors could easily imitate is prohibited, unless, again, it indicates their harmfulness.

## **f) Reality programmes and talent shows**

Despite many versions of reality programmes and talent shows, this section deals with the specific element of this type of hybrid programmes, emphasising the mix of documentary and fictional (dramatic) content, with elements of commercial communications, as well. What is important in this respect is to understand that the programmes in which groups of people who are not professional actors but who are often directed and encouraged by producers to behave in a certain manner, are perceived by children not as fictional but as real and uncensored. Such programmes often contain conflict and fights between participants (who are, to begin with, placed in a very unnatural environment), sexualised behaviour, and other elements which scandalise the public and build interest.



These programmes can contain harmful elements for minors, both for those who are only watching them and even more for those participating in them, as, as indicated above, can contain gender stereotypes, emphasise sexuality and physical appearance, and sometimes foster and stimulate violent behaviour and inducement of conflict between people. Some research suggests that minors who often watch these programmes believe that the “pursuit of happiness” requires or is limited to wealth, popularity and beauty. Additionally, participation of minors in these programmes is sometimes not recommended, as it can produce mixing of reality and acting, exposure to stress, as well as exposure to unwarranted comparison with others to one’s detriment, and finally, loss of privacy<sup>22</sup>.

An aspect in terms of protection of minors from harmful content that has been particularly relevant in this region relates specifically to reality and talent shows. As stated above, these programmes usually, though not necessarily, are considered as entertainment, but take numerous forms across different genres, and they constantly evolve and, most of all, enjoy large popularity. Apart from the fact that it is more or less based on real life and real people, it is impossible to define and pigeonhole, the experience of many countries shows that the protection of minors represents a genuine concern in relation to these programmes, as well as the broader issues of human dignity and protection of privacy. There are many other concerns related to reality television that raise deeper issues of fundamental beliefs, civic values and societal norms; many of these issues indeed fall outside the scope of regulation whose goal shall never be to engage on dictating behaviours or adopting moral stances but are nevertheless important and should be open to discussion with society at large.

From the regulatory perspective, reality and talent shows are already covered by general provisions on protection of minors from harmful content that apply to any other audiovisual media services. This, evidently, means that reality and talent shows are well covered by an array of requirements with the final aim to ensure that minors are not exposed to content that might seriously impair their moral, mental and physical development, as well as to ensure protection from content that is unsuitable for them such as violence and dangerous behaviour, nudity and sexual material, offensive language, alcohol abuse, smoking etc. Those same elements are indeed often present in many forms of reality television shows. In addition to the “usual suspects” that are considered as likely to impair the development of minors, reality shows may bring about additional concerns. The issues at stake in reality and talent shows usually concern human dignity or their harmful effect in particular on minors.

An interesting case from the perspective of participation of minors and consents given by parents and legal guardians of minors arises from the recent case the British regulator Ofcom dealt with. In particular, it relates to an observational documentary which observed mothers and daughters as they engaged in beauty treatments, glamorous clothing, or attending children’s beauty pageants, under the title “Blinging Up Baby”. Ofcom received a number of complaints about the participation of a four-year old girl wearing a Hooters themed outfit, made by her mother, and performing a dance routine which included some sexualised movements (such as leaning backwards on all fours and thrusting her hips backwards and forwards four

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22 <https://www.medijskapismenost.hr/preporuke-za-zastitu-djece-i-sigurno-koristenje-elektronickih-medija/>, accessed on December 17, 2018.

times towards the audience). Though fairly extensive steps had been taken to protect the child in terms of her involvement in the programme before production and during production, Ofcom noted that the broadcaster did not conduct a risk assessment at the post-production stage to consider any risks associated with broadcasting the child's Hooters-themed performance and/or to seek additional expert advice. Also, the broadcaster had unduly relied on the mother's consent rather than making its own considered and independent assessment of any adverse consequences arising from the broadcast of the images of the child wearing this outfit. In this case, the broadcaster was found in breach of a relevant rule for not taking due care of the child's welfare and dignity, irrespective of the consent given by the child's mother<sup>23</sup>.

Due to the fact that same series of reality programmes in regular intervals flood this region and that their content often represents some of the worst examples of breaches of relevant rules related to protection of minors from harmful content<sup>24</sup>, in Bosnia and Herzegovina, Serbia and Montenegro, the provisions targeting reality shows are even more specific.

In Bosnia and Herzegovina there are restrictions in the time of their broadcasting stating that reality programmes may be broadcast only between 24:00 and 06:00 hours. However, this restriction applies only to certain types of reality programmes, according to definitions given in relevant rules, which state: *"For the purpose of this provision, the definition of reality programmes has been limited to ostensibly unscripted versions of this television genre that show the life of a group of participants in an isolated space who are permanently in the zone of video cameras and microphones, and who are trying to win or are competing for a prize. Pseudoreality programmes are defined as scripted programmes that display either reconstructions of authentic events or entirely fictional but real life-like situations whose focus is on drama and conflicts, for example adultery, criminal acts, difficult life situations etc."*

In Montenegro, there are scheduling rules for reality programmes which may be broadcast only between 23:00 and 06:00 hours and labelled as not suitable for the audience under the age of 18. The restriction applies to all reality programmes defined as: *"... content that depicts, primarily for the purposes of entertainment, how one or more participants behave, in natural or artificially created environment, in concrete life situations (e.g. cohabitation in a certain community, mutual communication, work, leisure, solving certain defined or unpredicted concrete problems, etc.) that have been anticipated, spontaneous or created in another way, over a certain period of time, the participants take part in, as a rule, in order to obtain certain material or non-material gain"*. As for the pseudo-reality shows, they must be labelled as not suitable for the audience under the age of 16 and can be broadcast only between 22:00 and 06:00. The restriction related to the "pseudoreality" programmes applies only to certain types of this content according to the following definition: *"pseudo-reality shows are defined as the content depicting certain authentic or fictitious life situations, according to previously prepared script"*.

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23 EPRA Background Document by Maida Čulahović (CRA) for the Working Group 2: "Case Study on the Protection of Minors: Reality and Talent Shows", 43rd EPRA meeting in Barcelona, 25–27 May 2016. [https://cdn.epra.org/attachments/files/2854/original/BCN\\_WG2\\_%20RealityTV\\_final\\_revised.pdf?1466159222](https://cdn.epra.org/attachments/files/2854/original/BCN_WG2_%20RealityTV_final_revised.pdf?1466159222), accessed on December 6, 2018.

24 Please refer to the cases in Annex 2 of this publication.

In Serbia, the REM adopted a Rulebook on the protection of minors' rights in terms of media service provision which sets forth detailed requirements for reality programme content: *“Reality programme content is considered unsuitable for minors under the age of 16 years, if it shows offensive behaviour that is not used as an act of aggression, or offending someone or showing consumption of alcoholic beverages, except if it is omitted from the recording or completely covered using a high frequency tone (beep sound), clouding the picture or other similar method. Reality programme content is considered unsuitable for persons under the age of 18 years, if it shows violence, offensive expression taken as an act of aggression, i.e. for the purpose of insulting; smoking, excessive consumption of alcoholic drinks or naked human body. Reality programme content cannot display serious violence, sexuality, drug abuse, as well as any conduct that constitutes hate speech or which offends human dignity or other human right. If an escalation of violence or indecency undertaken in order to insult occurs in the course of reality programming which is broadcast directly (live), the media service provider is obliged to immediately terminate its broadcasting, if it cannot otherwise avoid showing such behaviour (e.g. mute, change of staff, etc.)”*

There are numerous other concerns connected to this particular type of programme, such as those relating to concerns about families from a “complicated social environment”, depictions of minors who were the victims of sexual abuse, issues surrounding human dignity, alcohol abuse, sexism and decency, as well as elements of hate speech amongst the participants in a reality show. In some instances, issues have been raised relating to protection of public order (incitements to delinquency, dangerous or uncivil behaviour), discriminating statements, or behaviour that could endanger participants' health, extremely negative portrayal of women based on gender stereotypes, hypersexualisation of children, promotion of and incitement to gambling, breach of privacy issues, etc.

To illustrate the point, a series of “Balkan cheats” broadcasted throughout the region is provided – a genre which is to be understood from the aforementioned definition of pseudoreality programme. The time of this particular episode was 14:00hrs.

The content of this episode includes an explicit scene of a man masturbating, while engaged in phone sex, with sexual language. It further involves a scene in which sexual intercourse is shown (in screen), during which the background conversation provides information on this intercourse being a sexual act of an adult with a 16-year old minor, additionally providing information on ways how to seduce and engage in sexual intercourse with such minors. Also featured are rituals scenes, including incoherent speech, propagating problem-solving solutions with magic, occult forces and quackery, related to infertility<sup>25</sup>.

What was particularly interesting about these programmes is that their audience shares were in stark contrast with the view and position of the expert community and competent authorities. While these programmes, highly commercial in nature, enjoyed significant popularity among a part of the general public, more articulated voices against such content have been highly pronounced, from the signing of petitions and receipt of a vast number of complaints, the content of which expressed grave concerns and outrage, demanding strong measures to be taken by the regula-

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25 For detailed information, please refer to Annex 2, pp. 120–122.

tors. These issues are to be also perceived from the perspective of the level of media literacy in this region, which is discussed further below.

The notions of *a priori* restrictions which apply to partial programme setting and structure, such as those found in the region in relation to reality shows, is to be considered from the fact that most of regulatory authorities from the region have witnessed and dealt with such cases of breaches of provisions related to provision of minors, as are rarely seen, from the perspective of their gravity (as illustrated below).

Additionally, as is the case in Montenegro, the Constitutional Court of Montenegro, acting upon a law suit relating to a commercial TV station broadcasting throughout the region, claiming unconstitutionality of these restrictions, rejected the claim and stated that these measures are proportionate and in line with ECHR.

### **g) Privacy and minors**

The issue of striking a balance between the right to privacy and the right to freedom of expression is a very important, highly debated and broad subject, requiring particular and detailed examination, best dealt with by a separate publication. For the purposes of consideration under the scope of this publication, only parts which relate to minors will be touched upon.

As a general principle, any intrusion in private life by exposure or disclosure of information protected by the right to privacy must be weighed heavily against justified public interest. The same is obvious and even more applicable in cases related to minors, where it is important to safeguard their identity and personal data, including and not limited to details of their private life and family relationships when there is possibility that the disclosure of information could jeopardising minor's well-being and dignity. Additionally, minors and vulnerable persons should not be questioned by audiovisual media service providers without the written consent of parents, guardians or other persons legally responsibility for them.

In this region, there are a number of reports and audiovisual programmes which evolve around presenting a difficult position of an individual or group of minors, most notably in exposing economic hardship. While the aim of such programmes can be philanthropic in nature, in addition to exposing poor and inadequate social policies of governing bodies, audiovisual media services sometimes produce sensational pieces, in violation of the privacy of minors. Some of the cases overseen by the NRAs in the region are tackling this very issue. In such instances, instead of seriously jeopardising the well-being and dignity of minors, audiovisual media service providers should responsibly educate the public in providing assistance and clearly specify the manner in which assistance can be provided, and above all refrain from sensationalism and cheap efforts to gain sympathies of an audience for them or advertisers by compromising their privacy, security and dignity.

More difficult situations can arise when reporting on criminal acts/proceedings involving minors. Rules for audiovisual service providers in relation to court proceedings in general apply, but more specific rules relate to those involving minors. Related provisions mirror general legal provisions related to court proceedings and

refer to the ban on providing information revealing the identity of minors involved in criminal acts/proceedings. In cases in which statutory prohibitions or restrictions on revealing the identity of minors are applicable, the audiovisual media service provider should particularly pay attention not to air information that might reveal or point to a trail that could lead to identification of minors who might be involved as victims, witnesses, suspects or are otherwise involved in the investigation or the court proceedings in connection with a criminal offence and should, in case of doubt, refrain from any kind of publication. Additionally, special attention should be paid to information that, combined with the information available elsewhere, could lead to the disclosure of the identity of the minor, including information and recordings from these proceedings. This does not prevent audiovisual media service providers from reporting on final court decisions in the case of minor or young adults, applicable in cases of criminal acts committed by or against minors, as well as in cases in which minors are witnesses, but without provision of personal information or information which can help in determining identity. Reporting on final court outcomes must always be weighed against justified public interest. There should be a provable and tangible public interest which supersedes protection of identity of a minor, such as protection of public health, public security, etc.

Special attention should be paid to the vulnerable position of a minor involved in the case as a victim or witness, especially if they are in any way involved in sexual assaults. Sexual assault is an extremely and especially difficult type of violence and leaves long-lasting consequences. Identification of such victims is absolutely unacceptable not only since it additionally traumatizes victims, but because it can lead to other victims refraining from reporting such crimes. In all such cases, information on identity may be broadcast only after previous approval by the competent authority.

These issues are important also from the perspective of rehabilitation of minors involved in such proceedings, which could seriously be hampered should minors be publicly labelled and associated with criminal acts. It is also important to create an environment in which judicial functions can be performed, without jeopardising the outcomes of court proceedings and pressuring judicial organs from executing their duties. This includes situations in which identification in certain cases could lead to witnesses' withdrawals due to public pressure.

Reporting on events surrounding and relating to criminal offenses involving minors is a very complex one, and audiovisual media service providers should perform their duty of informing the public while simultaneously trying to protect the identity of minors involved. Additionally, it is also important to report on possible misconduct of judicial bodies, as it is clearly of public interest. However, cases involving minors might not be the best avenue to pursue in this context, or, if it is, a very stringent application of privacy rules should be in place. This especially becomes hard in today's world, with an abundance of violations of these important principles by users of social networks, click-baiting of irresponsible portals, etc. Dilemmas on choosing the reporting approach can additionally be hardened with disclosure (leaks) of inappropriate information from relevant law enforcement and judicial bodies and even families. Still, responsible audiovisual media service providers should refrain from engaging in a "herd" mentality and report responsibly, professionally, adhering to ethical codes of conduct. If in doubt, audiovisual media service providers should always refer to relevant judicial bodies for guidance and information.

## **h) Minors and commercial communications**

Apart from general rules governing commercial communications in audiovisual media services, including obligatory identification and separation of commercial content, prohibition of surreptitious and misleading commercial communications, adherence to ethical standards, etc., there are additional rules pertaining to minors in relation to commercial communications.

These include the prohibition of commercial communications that encourage behaviour that might impair the health, mental and/or moral development of minors. Those aimed at or featuring minors should avoid anything that might harm their interests and should have regard to their special susceptibilities. Additionally, commercial communications should not recommend a product or service which is not suitable for them, recommend medicines and medical treatments, means of regulating body weight, ignition devices, inflammable and other hazardous substances, convey religious messages and contain erotic content, suggest that the use of certain products or services may result in enhanced physical, intellectual or other social skills, contain messages that directly encourage minors to buy or hire a product or service by exploiting their inexperience or credulity, etc.

Some additional provisions relate to prizes, where it is stipulated that prizes provided for minors must be suitable to their age, or, if commercial communications show the result of drawing, drafting, assembly and modelling, the ability to achieve this result should match the average ability of minors for which the commercial communications are intended.

The applicable rules are in place to ensure protection of minors from harmful content, which can certainly come from commercial communications as well, as children are susceptible to audiovisual materials, especially commercial content, due to their lack of understanding of its commercial nature.

## 4. Beyond regulation – a wider approach to protection of minors

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**P**rotection of minors is an interdisciplinary task for many actors in society. It begins and ends with parental responsibility, but it is far from being their sole responsibility. It extends from the basic nucleus – the family – through to educational systems, all the way to governing bodies and supranational and international levels.

Non-traditional regulatory mechanisms, including co- and self-regulation, all of which have the aim of enhancing the quality of protection of minors, from national to supranational and international level. Co- and self-regulatory mechanisms are more flexible and adaptable than formal regulatory mechanisms, or those related to exclusive legal prescription related to protection of minors. As situations in which minors can be affected are complex and numerous, co- and self-regulatory mechanisms can play a very important role<sup>26</sup>.

Additionally, laissez-faire market principles cannot be relied upon in connection to protection of minors, as it would leave space for potential irresponsibility on the part of audiovisual media service providers, which is the least desired in this area. Protection of minors is regarded as being of exceptional public interest. Protection measures applied normally start from the premise that children are much more influenced by media than adults, they are not able to critically assess media content and are hence much more vulnerable. Children are lacking in experience and, as a consequence, have no adequate level of cognitive and emotional mechanisms that would enable them to responsibly deal with media content perception. That is where co and self-regulatory codes of behaviour are found to be very complementary to regulatory mechanisms, a first pillar of protection, which carries much more flexibility and adaptability, in addition to providing an expense-efficiencies balance. Measures towards achieving general public interest goals in the audiovisual media sector are more effective if undertaken with a very active role of service providers themselves. Such initiatives certainly cannot be a replacement for legally-binding obligations in this field, as only a balanced combination of legal, technical and educational meas-

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26 Numerous examples have been mentioned in previous chapters and can include, but not be limited to, circumstances in which a minor is a witness, a victim or is participating in illicit activities, situations of attempt or execution of minor's suicide, etc.

ures, including prevention, can represent a level playing field that can adequately deal with dangers children face in the contemporary media environment.

Where this becomes evident is in the area of media literacy. The basic principles related to media literacy have already been dealt with in the previously mentioned Council of Europe's publication: "Media regulatory authorities and hate speech". In this section, the aspect of media literacy will be dealt from the perspective of protection of minors.

The new media environment where consumers are increasingly active and are expected to take greater responsibility for their media consumption requires more than just an adequate legal framework in order to guarantee the effective protection of minors. Different stakeholders, such as competent ministries, regulator, industry, academic community and the NGO sector have to cooperate, initiate and implement various initiatives.

As Annex 3 of this publication shows, there are numerous activities in relation to media literacy being executed by participating NRAs and/or in which NRAs take part in cooperation with other stakeholders. To sum them up, a lot of activities relate to executing the campaigns intended to raise awareness of parents, guardians, media and wider society on the function of classification systems for programme content. NRAs are very actively involved in providing guidelines and recommendations related to the better understanding of legal provisions related to protection of minors. Additionally, they concentrate on efforts to create and maintain some sort of national platform for media literacy (normally involving the establishment and maintenance of a national website dedicated to this subject), which, as happens to be the case in this region too, seem to function much better as NRAs are directly involved, or are at least acting as a positive catalyst of activities. Numerous contributions from NRAs include seminars, workshops and conferences related to this topic and/or topics surrounding media literacy in addition to bilateral and international initiatives and cooperation. As regulatory authorities from this region report, there is cooperation with a number of institutions, organizations, actors and many elements in the field of audiovisual media. From national academic institutions, the collaboration extends to NGOs, but also to international organisations, such as the Council of Europe. The production of this publication is an excellent example of cooperation in this field and the authors hope it will provide for future activities and projects in the field of protection of minors.

Also, NRAs from this region follow and actively participate in the regular media literacy activities performed under the auspices of the European Platform of Regulatory Authorities and such efforts provide a valuable source of information and incentives for further involvement in this field.



## 5. Recommendations and Conclusions

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Protection of minors clearly represents one of the greatest concerns and priorities of public policy both on international and national levels. Given that harmful audiovisual content can have the gravest consequences for the physical, mental and moral development of minors, it is – in addition to hate speech – one area in which the highest level of protection is guaranteed, including the grounds for limiting the freedom of expression by way of strongly restricting or even prohibiting certain material to be shown.

It is clear, however, that regulation alone cannot address all the challenges in relation to the protection of minors. Content available on platforms and through channels that are beyond traditional or statutory regulation is presenting an ever more prominent challenge in ensuring that harm is kept at bay. As children and minors watch more content online and on-demand, the issue of their exposure to harmful content is only magnified, but also accompanied by other issues such as concerns over privacy and cyber-crime. The protection of minors is therefore a task for society as a whole, where everybody's role is important and complementary. While this publication deals primarily with the activities of NRAs in this respect, it is also necessary to highlight those that are not in direct remit of NRAs but in which they can nevertheless offer their support and engage with other stakeholders towards the common goal of protecting the most vulnerable group of society.

### LEGISLATIVE BASIS

As presented, legislative measures related to protection of minors extend from criminal codes, family laws to sub-legislative norms enacted by National Regulatory Authorities, but also self-regulatory mechanisms intended for media outlets outside of scope of and mandate of NRAs.

Bearing in mind the fact that all participating countries transposed the AVMD Directive, the norms applying to audio and audiovisual media services revolve around the content which might seriously or are likely to impair the physical, mental or moral development of minors. These norms are bound to be transformed into legislation reflecting the text of the new AVMS Directive. Other norms reflect the issues around commercial communications, protection of minors in court proceedings, issues around elections, etc.

The legal context of participating countries, as well as other issues surrounding the protection of minors, mirror the proximity of the participating countries, which is customary in areas where similar or shared programme content is available.

## REGULATORY ACTION

Protection of vulnerable audiences from harm, especially children, is one of the most important tasks of NRAs. Regardless of the need to adopt the regulatory approach to the shift in media landscape, this task remains at the very core of regulation, which is also recognized by the revised AVMSD in relation to video-sharing platforms and their obligation to protect minors from programmes, user-generated videos and audiovisual commercial communications which may impair their physical, mental or moral development.

Even though numerous analyses and reports show that children watch less television and get more of their content online<sup>27</sup>, television still represents a significant part of their media consumption, especially at younger ages. The experience of the NRAs from this region, as demonstrated by the cases presented in this publication, shows that the instances of breaches of provisions related to the protection of minors are serious and still quite frequent. Furthermore, the experience of several NRAs from the region (Bosnia and Herzegovina, Croatia, Serbia) in relation to reality programmes<sup>28</sup> also shows that audience expectations for regulatory protection are still quite high. An overview of most relevant cases dealt by the NRAs from the region shows that breaching the rules on the protection of minors from harmful content and classification and scheduling of programme content represent the vast majority of cases and was the only issue cited by all seven NRAs. This fact proves that regulation of traditional linear television when it comes to the protection of minors still remains highly relevant in the region despite the changes in technology use and media consumption and is an issue on which NRAs still need to concentrate significant efforts. Indeed, almost all cases dealt with by regional NRAs were related to television broadcasting.

Another issue that seems to be particularly prominent in the countries of the region relates to the protection of minors' dignity, privacy and identity. Other cases cited by the regional NRAs concern the participation of minors in programmes, commercial communications and minors, protection of minors in media coverage of elections, and reporting on minors in relation to criminal acts and proceedings<sup>29</sup>.

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27 6 to 15 year old's spend about 20% of their screen time watching on line video clips. Source: Gilles Fontaine, Christian Greece, Marta Jimenez Pumares, Online video sharing: Offerings, audiences, economic aspects, European Audiovisual Observatory, Strasbourg, 2018, accessed on December 20, 2018,

28 In 2015, the broadcasting of several highly controversial regional reality shows stirred up a massive public outcry in Bosnia and Herzegovina, including demands for firmer regulatory action and even calls for these programmes to be banned altogether. Amongst others, the CRA received a petition signed by more than 5253 citizens demanding that one of the most controversial reality shows broadcast at that moment, titled *Farma* (the Farm) should either be completely banished or permitted to be broadcast after midnight only.

29 It should be noted that this publication features also some of the cases in which the NRAs had not find breaches of relevant rules, in order to demonstrate the deliberations of NRAs when deciding on cases, such as the instances in which public interest prevailed over the right to privacy.

Bearing in mind the abovementioned, the “traditional” broadcasting regulation seems to be not only still relevant, but also very much needed. Due to their legal mandates, the ability to afford constant attention to instances of potentially harmful content by means of monitoring, quickly responding and employing mechanisms to correct these occurrences, the role of NRAs in protecting the society’s most vulnerable remains crucial.

In addition to their role in adopting rules and ensuring compliance thereto, NRAs can help with softer mechanisms in a form of various guidelines in order to assist the media in better application of relevant rules, but also as the means of literacy of society at large on professional and ethical standards<sup>30</sup>.

In addition, in order to effectively respond to present challenges, NRAs’ role should be extended to offering support to other stakeholders who have a role in the task of protecting minors, for instance by contributing to professionalism and efficiency of self and co-regulatory schemes as well as media literacy initiatives.

## PROSECUTION AND LAW-ENFORCEMENT AGENCIES

Internet has become one of the principal means for individuals to exercise their right to freedom of expression – however, it has also enabled numerous possibilities for inflicting harm on minors in various ways, in which cases swift action is required. The role of independent, strong, knowledgeable and agile prosecution and law-enforcement agencies is therefore becoming ever-more crucial, which is why continued efforts on strengthening the capacities of these institutions should be made.

## COOPERATION

As has already been pointed out, the new media environment in which traditional roles and responsibilities between content producers and viewers have been blurred, and in which new players and business models have emerged requires close cooperation between different stakeholders. In addition to cooperation at the national level between NRA, law-enforcement agencies, the judiciary, competent ministries, industry, the academic community, NGO sector etc., enhanced international cooperation becomes of crucial importance because of the international and trans-national character of audiovisual media services and especially video-sharing platforms, posing issues – such as those over jurisdiction – that cannot be solved by any one national regulator alone.

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30 In terms of best-practice examples when it comes to participation of minors in programmes, Ofcom’s Guidance on Rules 1.28 and 1.29 – *The involvement of people under eighteen in programmes* should be mentioned, as it sets out tailed and sets out some best industry practice and recommended measures that cover all stages of production: pre-production (documented guidelines for in-house and independent production teams, background checks, risk assessments – physical and emotional/mental, consulting experts, record-keeping, communication with minor participants, parents and guardians); during production (single point of contact, expert support, impact of different formats (live, with studio audience, competitions); and post-production (monitoring of after-effects, professional support, advising on the impact of social media).

The cooperation of NRAs from this region – also facilitated by the Council of Europe – can be stated as a good example of the successful exchange of experience and practices<sup>31</sup>, but also efforts to harmonize approaches towards common problems bearing in mind close historical, cultural and linguistic ties between the countries from the region, but also economic reasons of the shared market and sometimes participants, due to which a great deal of television content available in the region shares the same audience. One of these issues has been surely the issue of reality programmes<sup>32</sup> which, for the reasons stated above, targeted the audience from the entire region and has stirred much controversy. Another area in which efforts should be concentrated within this region is the possible harmonisation of classification systems.<sup>33</sup>

The need for developing some kind of uniform system of classification has already been emphasised in this publication, but it is also a matter of discussion on a wider European level, though it is recognised that differences and discrepancies in cultural backgrounds and contexts, as well as expectations and specific sensitivities of the audience across the continent would render this process impossible. However, some steps in this direction are still possible. In 2016, the European Regulators Group for Audiovisual Media Services (ERGA) adopted a Report on the protection of minors in a converged world, which draws some key recommendations on the future system of protection of minors. Among other things, it is recommended that there would be value in establishing at EU-level an indicative, non-exhaustive list of common characteristics associated with content that is ‘likely to impair’ or content that ‘might seriously impair’, as well as to explore creating universal content categories that can be matched to national age classifications. The Council of Europe’s study “Analysis of the implementation of the provisions contained in the AVMSD concerning the protection of minors” from November of 2014, which examined protection of minors in EU Member-States and the implementation approaches of the AVMS Directive, including classification systems, is a great resource for more detailed information in this respect<sup>34</sup>.

## SELF-REGULATION AND CO-REGULATION

In today’s converged, digital media environment, the providers of audiovisual media content as well as video-sharing platforms will inevitably have to assume the bulk of responsibility for the protection of minors. No less important is the individual responsibility of the providers themselves, and voluntary measures taken to this

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31 Such is the sharing of best media literacy practices by the Croatian AEM who granted the Montenegrin regulator the rights to use their TV spot for the campaign *Let’s Choose What We Watch*.

32 Under the auspices of the Council of Europe, two meetings were held in 2015 in order to exchange experience and compare approaches in regulation, especially with regard to regionally produced reality shows such as “Big Brother” which was broadcast in five countries in the region.

33 For instance, according to current rules in Bosnia and Herzegovina, category 12+ can only be broadcast after 20:00 hours, whereas the neighbouring countries do not have a strict watershed for this category.

34 Available at: <https://rm.coe.int/analysis-of-the-implementation-of-the-provisions-contained-in-the-avms/16807898a5>, accessed on February 15, 2019.

end – after all, many providers are motivated to take action to protect minors by a desire to meet viewers’ expectations and therefore maintain their reputation.

NRAs can offer support and supervision in this regard – a prime example that has been stated in this publication is the Dutch system, where there is a shared responsibility between CvdM and NICAM: primarily, the responsibility for the functioning of the classification system lies with NICAM, and the CvdM evaluates their work yearly and carries out meta-supervision. In JUFREX countries, unfortunately, there are no professional bodies that would assume this role – one notable example being the Croatian Audiovisual Centre which offers a database of films accompanied by appropriate age categorisation.

Since the protection of minors is a shared responsibility, and the area in which NRAs’ role is without doubt crucial, but nevertheless limited, strengthening the role and the efficiency of self and co-regulatory mechanisms is of utmost importance. Very useful information and recommendations in this respect can be found in another Council of Europe study: European co-regulation practices in the media, Comparative analysis and recommendations with a focus on the situation in Serbia<sup>35</sup>. This is not only limited to classification of television content, but also across other audiovisual and media segments such as cinematography, video games, user-generated content. Advertising targeting minors is another area of concern, and it becomes especially prominent in connection with video-sharing platforms which are mainly financed by advertising. In that sense, closer cooperation between the NRAs and the advertising industry, as well as support to self- and co-regulatory schemes in this area would be recommended.

## **MEDIA LITERACY**

Last but not least, activities and actions pertaining to the media, information and internet literacy should be fostered. This publication illustrates some of the examples from the region of how various media literacy initiatives can be used to target all relevant groups of society and empower them to take an active part in preventing and adequately responding to instances that pose danger to the well-being of minors. Just as the protection of minors is a task for all, so is the task of spreading awareness, and each of the players can and should have their specific role in this.

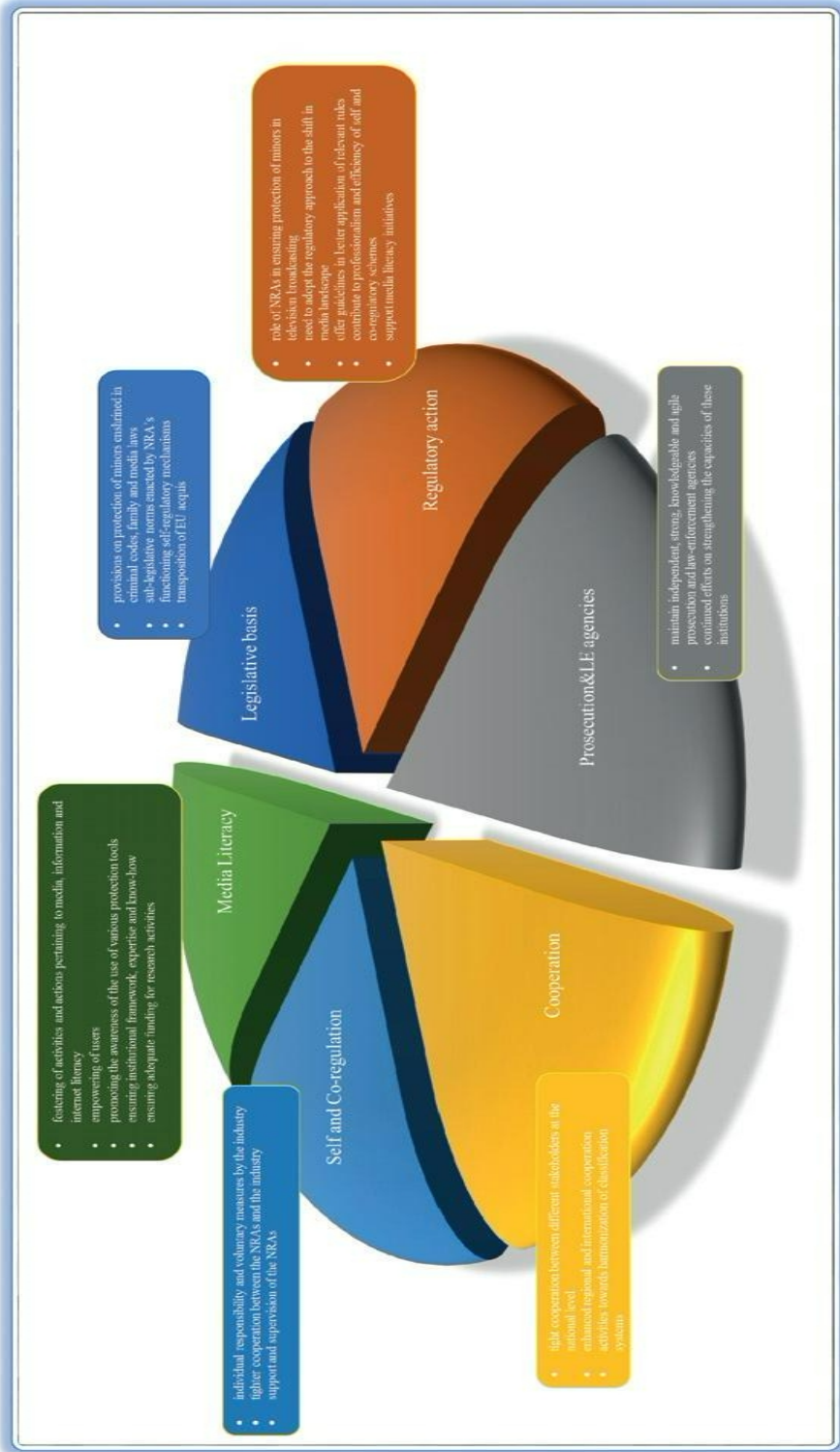
The role of NRAs in these endeavours is important, but not primary. The role of media professionals, educators, civil society organizations and, finally, parents and other caregivers, is and should remain at the forefront of media literacy initiatives. Even so, it is important to ensure institutional framework which would guarantee the consistency and longevity of planned activities. NRAs are naturally equipped to provide that institutional support as well as the expertise and know-how, in addition to making use of their established role in society as media watchdogs on the one hand, and an institution with direct contact with the citizens on the other hand, in order to promote awareness of the use of various protection tools, such as content classification and various tools for online safety.

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35 Available at: <https://rm.coe.int/european-co-regulation-practices-in-the-media/16808c9c74>, accessed on February 15, 2019.

One of the NRAs' primary tasks, not least due to their unique position and relation to market players, should be to conduct research, e.g. on media use and habits, which would help better understand the situation and provide a basis for further, concrete actions. In the countries from the region, these are clearly missing to an extent from the activities undertaken so far. The reasons for this are primarily of financial nature, but include other factors. Issues regarding prioritising the work of NRAs manages to leave the research aside or on stand-by. However, bearing in mind the importance of research results for mapping the state of affairs and identifying priorities on which efforts should be concentrated, ensuring adequate funding for research activities, within NRAs and in partnership with all the relevant stakeholders and actually producing regular, dependable and reliable reports, is of utmost importance.

The following figure illustrates key recommendations and actions in order to ensure effective protection of minors.







# **Annex 1: National Legal framework overviews**

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## ALBANIA LEGAL AND INSTITUTIONAL CONTEXT

### 1. National Regulatory Authority establishment, mandate and powers

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**T**he National Regulatory Authority is the Authority of Audiovisual Media (AMA), established by the Audiovisual Media Authority Broadcasting Code. AMA is the regulatory authority in the field of audio broadcasting services and audiovisual and other support services. AMA's competencies include: review of applications for the exercise of broadcasting services, including applications for digital broadcasting and providing relevant authorisations or licenses, insurance of fair competition, while ensuring further development, cooperation with the Consumer Protection Commission to guarantee consumer protection in the field of electronic media, imposition of sanctions for breaches of relevant rules, development of strategies for the provision of broadcasting services, drafting and approval of the audiovisual broadcasting code and regulations and other subsidiary legislation, defining fees for licenses, preparation and issuance of guidelines to the PBS in relation to fulfilment of its obligations, establishing criteria and regulatory measures for co-use of the transmission infrastructure of PBS, resolution of disputes between providers of audio or audiovisual broadcasting services, including disputes with PBS, cooperation with the ministry on drafting the National Frequency Plan, collaboration with other bodies for the fulfilment of obligations specified in this law. Additionally, AMA collects, manages and publishes information on the audiovisual media sector, monitors the development of the audiovisual media activities at the international level, organises, supports and promotes research on issues related to audiovisual media, cooperates with other bodies, including representative bodies within the audiovisual media sector, to help training activities in the audiovisual media sector, cooperates with its counterparts in other countries, initiates, encourages and oversees research and related activities, related to the role of media, including cooperation with broadcasters and other entities in the field, and monitors all programmes broadcast. The applicable procedure include procedures within AMA and its Complaint's Council, but cases can also be appealed before the Court.

Website: [www.ama.gov.al](http://www.ama.gov.al).

All decisions are published. At the beginning of each year AMA reports on its annual activities are submitted to the Committee on Education and Public Information Media and to the Assembly.

### 2. Legislation related to protection of minors

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#### *(1) Law 97/2013 For Audiovisual media in the Republic of Albania (amended Law no. 97/2013)*

##### **Article 4, paragraph 1, b)**

Audiovisual broadcasting unequivocally respects the right to information, political beliefs and religious beliefs, personality, dignity and other fundamental human

rights and freedoms. This activity respects in particular the rights, interests and moral and legal requirements for the protection of minors.

### **Article 7, a)**

Direct sales and sales of alcoholic beverages must meet the following requirements:

- a) they should not target minors or present minors in consuming these drinks;

### **Article 20.2**

The object of the work of the Council of Complaints is to oversee the implementation of the broadcasting code and regulations adopted by AMA, dealing in particular with respect for the dignity and other fundamental human rights, in particular protection of minors, the right to information and awareness of public opinion regarding respect for moral and ethical norms in the programmes of audiovisual service providers.

### **Article 33, Item e)**

Prohibits all media service providers from transmitting pornographic programmes without the provision of protection of minors through conditional access equipment and parental control.

### **Article 43. 4**

Broadcasting of minor programmes may be interrupted by advertising spots or direct sales no more than every 30 minutes, if the duration of the programme is more than 30 minutes.

Additionally, AMA supports its activity based on the aforementioned Law and the respective regulations approved by the Authority, such as the Regulation “On audio and/or audiovisual communications of a commercial nature, format, conditions and the permitted daily time for the broadcasting of advertisements”. In all these legal and sub-legal acts, children’s protection has a particular focus and is treated with priority.

## ***b) Broadcasting Code***

### **Section 1**

#### **Fundamental principles**

1.4 Audiovisual broadcasting activities shall particularly observe the rights and best interest of the child, as well as moral and legal requirements for child rights protection.

1.13 Audiovisual broadcasts containing pornographic elements or extreme violence must be subject to the specific rules of a control system, such as that of conditional access or encrypted broadcasting. No pornographic content shall be aired during children’s programme time slots.

1.16 Audiovisual broadcasts should promote and protect children’s wellbeing, health, and harmonious moral and physical development. The principle of best interest for children’s protection must come first in any decision-making related to

broadcasting, programming, participation or information related to them in audio and audiovisual media.

## **Section 4**

### **Informative programme broadcasting**

4.10 Audiovisual media service providers should pay particular attention to child rights observance when reporting cases of child victims or perpetrators of violent acts, bullying, sexual violence, serious crimes etc.

4.11 Audiovisual media service providers should not be permitted to broadcast programmes displaying or communicating and compelling children into violent or pornographic behaviours, participation in conflict etc.

## **Section 5**

### **Children in audiovisual broadcasting**

#### **Child identification**

5.1 Any reporting or broadcast, leading directly or indirectly to the visual or audio identification of any child that might be a victim, witness, person under investigation, indicted, or proven guilty of a criminal offense, by disclosing his/her general data, address, or any description thereof is banned to audiovisual media service providers, except for cases of public interest.

5.2 Any reporting or broadcast leading directly or indirectly to the identification of any child that may or has been involved in a serious family law case should be avoided. Interviewing a child that may be involved in a grave situation such as runaway children, children that have made suicide attempts, children exploited by criminal groups and children that were part of a prostitution network, or children with convicted parents is banned.

5.3 The adequate technology concealing the identity on video or audio of the child should be used in cases foreseen in paragraphs 5.1 and 5.2 above.

5.4 Child-related data disclosed in the media should avoid: child identity and initials; identity of parents or any relative enabling the child's identification; circumstances and details on the event, enabling the child's identification, violating his/her dignity, and not serving to the public interest; the name of the kindergarten, school, or institution where the abuse or criminal offense were not committed in the premises of that institution; the name of the perpetrator in kinship relations with the victim.

5.5 Circumspection is also required when dealing with third non-child parties reporting and broadcasts that might leading to the direct or indirect identification of the child, in line with paragraphs 5.1 and 5.2 above.

5.6 Children's images or pictures should not be taken secretly. They should be taken upon parents or the child's legal guardian consent and approval, after having been informed on their purpose and manner of use.

5.7 Audiovisual media service providers should avoid broadcasting degrading images of children and should stimulate instead the broadcasting of positive images of children.

5.8 Audiovisual media service providers are banned from broadcasting children's sexually suggestive images, or depicting the child in inappropriate positions. They should also avoid broadcasting images of children in situations or premises conveying denigrating messages and rendering the child identifiable.

5.9 Audiovisual media service providers should enact strict rules for child material and footage archiving and dissemination, restricting and preventing the possibility of abuse with such materials.

### Child Interviewing

5.10 A child should be interviewed in the presence of his/her legal representative, or another person appointed by him/her.

5.11 The child and his/her legal representative should preliminarily be informed on the purpose of the interview and its possible use. Both the child and his/her legal representative's right to refuse to be interviewed should be observed.

5.12 In case the legal representative refuses the child to be interviewed, then such an interview may only be conducted if the child insists to do so and if the journalist's judgment that the interview will serve the child's interest is specifically grounded. In such a case, the journalist shall not conduct the interview alone with the child, but shall request the presence of a psychologist, child rights protection worker, school teacher, educator, etc.

5.13 The journalist shall in no case exert pressure, make promises, or grant gifts to the child or his/her legal representative in order to get the interview.

5.14 If necessary, the journalist shall seek the assistance of a specialised psychologist or social worker while interviewing the child.

5.15 The interview should be conducted in adequate premises, so that the child feels free and not under pressure. Lengthy interviews and filming tiring and negatively impacting the child and the repetition of the interview and filming with the same child on no reasonable cause should be avoided.

5.16 Questions should be clear and direct and should not be suggestive.

5.17 Questions or prejudicing comments dangerous to the child and those reminding him/her of traumatic events should be avoided.

5.18 Should the journalist become aware during the interview of a criminal offense committed against the child or jeopardising the child, he/she should immediately inform the relevant authorities.

5.19 Should the journalist become aware during the interview of facts, the publication of which could threaten the life, health, education, or the physical, emotional and moral wellbeing of the child, the entire or specific parts of interview should not be broadcast.

5.20 Audiovisual media service providers should avoid interviewing and broadcasting interviews with child victims of sexual abuse or any other form of abuse, unless the broadcasting of the interview serves both to the child's best interest and the public interest.

## Children and commercials

5.21 Audiovisual media service providers should not air commercials that may harm children's physical, mental, or moral development. Audiovisual media service providers should not broadcast commercials of services and products that pose threats to children's physical, mental, and moral development.

5.22 Audiovisual media service providers should not air during children's programmes commercials of special food and beverages categories considered harmful to them, especially those with high fat, sugar, salt, etc. contents.

5.23 Audiovisual media service providers should control the content of commercials and program promotional messages, especially of commercials for and with children, by guaranteeing that the use of every single child or child image in commercials be accompanied by the child's parent or legal guardian written consent.

5.24 Audiovisual media service providers should ensure that children's involvement in commercials be not to the detriment of their education, health, and physical and mental development.

5.25 Commercials should not depict children in violent, dangerous, aggressive, or auto-aggressive situations, attitudes and actions.

5.26 Commercials should not depict children, or adults consuming alcoholic beverages, smoking, or other harmful substances at children's presence.

5.27 Children should not be directly depicted in purchasing the products being advertised, as this could constitute an abuse of their trust and lack of experience.

5.28 Advertising a service or product should not imply that the lack of that service or product will put the child in an inferior or discriminatory position compared to other children.

5.29 Children commercials should be developed in a language that is adequate for the abilities/capacities of the age group targeted by the commercial.

## Cultural and entertainment programmes, movies and children

5.30 Audiovisual media service providers shall not be permitted to broadcast programmes that could seriously harm children's physical, mental, or moral development, especially movies or programmes containing pornography or depicting extreme and gratuitous scenes of violence.

5.31 Audiovisual media service providers should be circumspect as regards public sensitivity and the impact of such programmes on children's moral, mental and physical development when broadcasting cultural and entertainment programmes, especially concerning the depiction of violent and sexual behaviour.

5.32 Audiovisual media service providers should allot adequate time slots for specific cultural and entertainment programmes for children.

5.33 Audiovisual media service providers should rigorously comply with ethical and moral requirements and protect child rights in cultural and entertainment programmes for children.

5.34 Audiovisual media service providers should allot a specific time slot for programmes that could harm children’s mental, physical, or moral development, or take other technical measures to restrict children from watching or listening to such broadcasts (adequate time slot 22:00 hrs to 06:00 hrs).

5.35 When programmes with content that may harm children are freely aired, they should be preceded by an acoustic warning or should be identified by the presence of a visual sign throughout its airtime.

5.36 Audiovisual media service providers should consider the level of harm caused by broadcasting any content harmful to children, in general or specific nature programmes.

5.37 Audiovisual media service providers should also take into account children’s requirements regarding the quantity and quality of audiovisual broadcasts to avoid both child dependence on television and emulating television models.

5.38 Audiovisual media service providers should treat all children participating in audiovisual programmes with respect, dignity, and professionalism.

5.39 Audiovisual media service providers should refrain from involving children with pathological issues or disabilities in their programmes for propaganda purposes or any other purpose violating their rights.

5.40 Audiovisual media service providers shall be bound to display child protection warning labels for any aired programme, especially during movies and programmes with problematic content and scenes.

5.41 Audiovisual media service providers should pay special attention to the language and ethical communication practices in entertainment programmes and shows produced with and for children.

5.42 In event of on-demand audiovisual media services, audiovisual media service providers should broadcast the programmes that could seriously harm children’s physical, mental, and moral development in an encrypted form. Audiovisual media service providers should not broadcast pornographic programmes without ensuring children’s protection through conditional access and parental control devices.

### **Audiovisual programming warning labels for child protection**

5.44 Warning labels for programmes that harm or damage children shall be obligatory for programmes broadcasted during the 19:00 hrs to 22:00 hrs time slot.

5.45 Audiovisual media service providers should broadcast the programmes set forth in paragraph 5.41 above with the appropriate warning sign, which should be displayed in a visible part of the screen, in clear and distinguishable color.

5.46 Audiovisual media service providers should prepare the broadcasting of movies or programmes set forth in paragraph 5.41 along with the relevant sign (when the programme does not include it), based on the preliminary programme review, according to the Broadcasting Code requirements, standards, and rules.

5.47 The warning sign shall be displayed on screen from the very beginning of the movie or programme throughout its airing. The warning sign shall be broadcasted prior to and after all interruptions to the broadcast, through to its ending.



5.48 Audiovisual media service providers shall use three types of warning labels:

- A. *Red colour* warning label for content that should be broadcasted only after 22:00 hrs, containing scenes of strong psychological and physical violence, sex, and use of inadequate language, lexicon and communication ethics.
- B. *Orange colour* warning label for content that must be watched by children accompanied by adults.
- C. *Green color* warning label for content suitable for all ages, including children.

5.49 Audiovisual media service providers may use various graphical representation forms for these warning labels such as group age categorization, providing that the warning label colour and clarity remain unchanged and binding for all.

## **Section 7**

### **Commercials in audiovisual broadcasting**

7.4 Commercials should not encourage or propel children to purchase or obtain products or services, by directly driving them to ask parents or other relatives to obtain the advertised products or services for them, or exploit the position of the child in relation to parents, teachers, or other relatives.

# BOSNIA AND HERZEGOVINA LEGAL AND INSTITUTIONAL CONTEXT

## 1. National Regulatory Authority establishment, mandate and powers

**T**he National Regulatory Authority of Bosnia and Herzegovina is the Communications Regulatory Agency of Bosnia and Herzegovina (CRA), established by the Law on Communications. The CRA is a converged regulator, regulating the sectors of broadcasting, telecommunications and frequency spectrum. The CRA's competences are: development and promotion of rules in the sectors of telecommunications and broadcasting; cooperation on development of all strategic rules and decisions regarding this sector, licencing of operators in the broadcasting and telecommunications sectors; planning, management and allocation of the frequency spectrum; implementation of technical and other standards related to quality; establishing and maintenance of licence fees and tariffs; issuance of sanctions for breaches of relevant rules. Sanctions at CRA's disposal include: oral and written warnings, financial fines, suspension and revocation of licence. The CRA consists of sectors and departments led by Director General, who issues first-instance decisions. The CRA Council acts as second-instance body related to all decisions of the CRA. Administrative dispute procedures can be initiated before the Court of Bosnia and Herzegovina. Procedures can be initiated before the Constitutional Court of Bosnia and Herzegovina in cases related to ECHR.

Website: [www.rak.ba](http://www.rak.ba).

The CRA is working on technical prerequisites for publishing all decisions, while, for now, monthly press releases are published, in relation to its decisions related to programme content. Also, the CRA has started informing the public on open cases of potential breaches of certain cases, particularly those deemed to be of public interest. The CRA prepares annual reports, as well as regular reports on decisions of the CRA, together with trends in breaches, which are all published on website.

## 2. Legislation related to protection of minors

### *(1) Criminal Code of Bosnia and Herzegovina*

#### **Article 1 Basic Terms**

(13) A child, in terms of this Code, is a person who has not reached fourteen years of age.

(14) A minor, in terms of this Code, is a person who has not reached eighteen years of age.

## ***(2) Criminal Procedure Code of Bosnia and Herzegovina***

### ***The Main Trial***

#### **Article 235**

##### **Exclusion of the Public**

From the opening to the end of the main trial, the judge or the Panel of judges may at any time, *ex-officio* or on motion of the parties and the defense attorney, but after hearing the parties and the defence attorney, exclude the public for the entire main trial or a part of it if that is in the interest of national security, or if it is necessary to preserve national, military, official or important business confidentiality, if it is to protect public peace and order, to preserve morality in democratic society, to protect the personal and intimate life of the accused or the injured or to protect the interest of a minor or a witness.

#### **Article 349**

##### **Announcement of the Course of the Criminal Proceeding**

(1) Neither the course of a criminal proceeding against a minor, nor the decision rendered in that proceeding may be made public.

(2) A legally binding decision of the Court may be published, but without stating the personal data of the minor that might serve as the basis for identifying the minor.

### ***First Instance Proceeding***

#### **Article 365**

##### **Exclusion of the Public**

(1) The public shall always be excluded when a minor is under trial.

(2) The judge for minors may allow the main trial to be attended by persons professionally concerned with the welfare and development of minors or with combating minor delinquency, as well as scientists. (3) During the main trial, the judge for minors may order that all or certain persons be removed from the session except the Prosecutor, defence attorney and the representative of the minor welfare authority.

(4) The judge for minors may order that the minor be removed from the session during the presentation of certain evidence or the oral presentation of the parties.

## ***(3) Family Law of the Federation of Bosnia and Herzegovina***

### **Article 124**

3) The child has the right to protection against unlawful interference with his or her privacy and family.

## *(4) Law on Communications of Bosnia and Herzegovina*

### **Article 3**

#### **Responsibilities of the Institutions of Bosnia and Herzegovina in Respect of Communications**

4. The Council of Ministers and the Agency according to the respective competencies as set out in this Law shall take all reasonable measures that are aimed at achieving the following objectives:

d) That copyright and other intellectual property as well as personal data and privacy is protected;

### **Article 37**

#### **Duties of the Agency**

1. Pursuant to the provisions of this Law the duties of the Agency shall be:
2. To promulgate rules on broadcasting and telecommunications, and ensure adherence thereto;

## **CRA BY-LAWS**

### *1. Code on Audiovisual Media Services and Radio Media Services*

#### **Article 2**

##### **(Definitions)**

(1) **A minor** is a person under the age of 18;

- **A young adult** is a person between the age of 18 and 21;
- **Reality programme** means a television genre, usually without a detailed scenario, that portrays the life of a group of participants in an isolated space who are permanently within the reach of cameras and in the microphone area, and who are competing to win and obtain a prize;
- **Pseudoreality programme** means a programme that displays certain authentic or fictional life situations and focuses on the dramatisation and conflicts, according to a scenario, e.g. reconstruction of events that may include but are not limited to adultery, criminal acts, difficult life situations, etc.;

#### **Article 8**

##### **(Violence and Other Harmful Behaviour)**

a) Broadcasting of scenes of violence and consequences of violence, violent behaviour, and audio or visual descriptions of violence must be justified by the context and must not be exaggerated in the content of the media service provider.

b) The programme content of the media service provider shall not, given the context, incite, encourage or glorify violence, antisocial behaviour, behaviour that is harmful to health or safety, especially if the audience is encouraged to imitate such behaviour.

c) When broadcasting reconstructions of crimes, violence and other harmful behaviour, media service provider shall provide a visual warning throughout the entire duration of such content indicating that the content is a reconstruction.

d) Alcohol and drug abuse shall not in any way be presented as acceptable behaviour, nor shall it be encouraged or justified in media service provider content.

### **Article 9 (Warnings for the audience)**

Audio-visual and radio programmes, including segments in the news, political and current affairs programmes, which can be disturbing for the audience (e.g. scenes of violence, consequences of violence or natural disasters, images of victims of accidents, scenes of the aftermaths of an accident, etc.), shall be announced with an appropriate warning.

### **Article 10 (Reality Programmes and Pseudoreality Programmes)**

Reality programmes and pseudoreality programmes will be broadcast in the period between 24:00 and 06:00 only. This restriction does not apply to content broadcast with technical protection, or to on-demand audiovisual media services.

### **Article 12 (Paranormal and Parapsychological Phenomena)**

(2) All content promoting paranormal and parapsychological phenomena and similar phenomena as treatment methods for medical and other life problems, especially those providing individual advice to the audience, will be broadcast in the period between 24:00 and 06:00 only. This restriction does not apply to content broadcast with technical protection, nor to on-demand audiovisual media services.

### **Article 17 (Protection of Privacy)**

a) Any violation of privacy must be justified by a demonstrable public interest, especially when it comes to minors and persons who do not hold public office and otherwise are not exposed to public view. Publication of facts relating to the private life of an individual, without their knowledge and consent, is only possible in the case of public interest.

...

(6) The identity and personal data of minors, as well as details of their private life and family relationships shall not be disclosed in cases in which disclosure of such information could lead to jeopardising of a minor's well-being and dignity.

(7) Minors and vulnerable persons who are unable to care for themselves shall not be questioned without the written consent of parents, guardians or other persons legally responsible for them. The content which discloses their difficult position, and whose primary goal is to animate the public to provide assistance shall clearly specify the manner in which assistance can be provided. Their identity and person-

al data shall not be disclosed in cases where there is a reasonable doubt that publication of this information might jeopardise their well-being and dignity.

### **Article 19**

#### **(Audiovisual and Radio Media Content Intended for Minors)**

a) The consumption of tobacco and tobacco products, alcohol and drugs will not be broadcast in content primarily intended for minors, unless it indicates their harmfulness.

(2) All forms of violence or dangerous behaviour that minors could easily imitate will not be broadcast in content primarily intended for minors, unless it indicates their harmfulness.

### **Article 20**

#### **(Participation of Minors in Audiovisual and Radio Media Content)**

(1) Any abuse of minors in the content of media service providers is forbidden.

(2) Any participation of a minor in content is dependent on the previous consent of parents, guardians or other persons legally responsible for them. This provision does not apply to cases where minors are exclusively an audience which does not participate directly in the programme content, to recorded materials that serve as an illustration and do not jeopardise the dignity of minors, such as collective recordings of the start of the school year, the recordings of minors as bystanders, etc.

(3) Prizes provided for minors must be suitable to their age.

(4) The direct participation of minors in content shall not in any way cause them anxiety or fear, nor shall it impair their physical, mental and emotional development and dignity, regardless of whether the minor himself, or his parent or guardian or another legally responsible person gave consent.

(5) Media service provider shall not question minors on private family matters, nor on topics that may be beyond their comprehension.

(6) The use of minors for political purposes is forbidden.

### **Article 21**

#### **(Reporting on criminal acts/proceedings involving minors)**

a) The name and other information revealing the identity of minors involved in criminal acts/proceedings must not be broadcast during any stages of the proceeding. In cases in which statutory prohibitions or restrictions on revealing the identity of minors are applicable, the media service provider shall particularly pay attention not to broadcast information that might reveal or point to a trail that could lead to identification of minors who might be involved as victims, witnesses, suspects or are otherwise involved in the investigation or court proceedings in connection with a criminal offense. Additionally, special attention shall be paid to broadcasting of information that, combined with information available elsewhere, could lead to the disclosure of the identity of the minor.

b) Information about the course of criminal proceedings against a minor and the decisions made in the process shall not be broadcast, nor will any audio or video recordings of these proceedings be made.

c) A final court decision in the case of a minor or young adult may be broadcast, but without provision of their personal information or information which can help in determining their identity. The aforementioned shall also apply in the case of criminal acts committed against minors, as well as in cases in which minors are witnesses.

d) In the case of disclosure of information in relation to criminal acts/proceedings, media service provider shall pay special attention to the vulnerable position of a minor involved in the case as a victim or witness. This is especially applicable to the broadcasting of names, home addresses, photographs or video recordings of the person concerned, the minor's school or workplace.

e) Special attention shall be paid to the protection of the identity of minors in any way involved in sexual assaults. In all such cases, information on the identity may be broadcast only after previous approval of the competent authority.

## **Article 22**

### **(Obligations related to protection of minors and categorization of content)**

- Media service providers will ensure the protection of minors from potentially inappropriate and harmful content.
- Media service providers are responsible for the categorization of all content.
- Media service providers, when categorising content, should pay attention to possible ethical and other social consequences of broadcasting such content, and should consider the following:

a) whether violence, consequences of violence or behaviour that can be easily imitated and that can be harmful to the health and safety of people are positively portrayed and presented as socially acceptable, or suggested as a way of solving conflicts/problems;

b) whether minors are portrayed as objects/victims of violence;

c) the degree of realism of the depiction of violent scenes, consequences of violence or behaviour that can be easily imitated and that can be harmful to the health and safety of people;

d) the frequency, vividness and detail in broadcasts of scenes of violence, sexual activities, inappropriate language or suggestive behaviour that can be easily imitated and that can be harmful to the health and safety of people;

e) whether behaviour offensive to human dignity is broadcast;

f) the frequency, intensity and duration of close-ups and/or detailed verbal, graphic and/or textual descriptions of brutality and vulgarity;

g) accompanying aesthetic effects (music, masks, makeup, etc.) that can be disturbing or create fear among the public;

h) the context and/or programme genre in which the content appears.

### **Article 23**

#### **(Content that might seriously impair physical, mental or moral development of minors)**

- Content that might seriously impair the physical, mental or moral development of minors shall not be broadcast in audiovisual and radio programmes. Such content includes, but is not limited to displays of brutal and extreme violence which is not justifiable by context, pornographic content with elements of violence or extreme sexual fetishes and similar.
- The content from paragraph (1) of this Article can be broadcast in on-demand media services with technical protection and if divided from other content as a separate part of the catalogue.

### **Article 24**

#### **(Content that is likely to impair physical, mental or moral development of minors)**

1. Media service providers shall ensure the protection of minors from content that is likely to impair their physical, mental or moral development either by technical protection or by appropriate scheduling and categorizing of the content. Such content includes, but are not limited, to scenes of coarse violence, sex, profane language and scenes or scenes of abuse of alcohol and drugs. This obligation does not apply to news and political and current affairs programmes, to which Article 9 of this Code applies.

2. It is prohibited to show pornographic content without technical protection. In addition, on-demand media services, pornographic content will be divided from other content as a separate part of the catalogue.

### **Article 25**

#### **(Scheduling and categorising of content for the purpose of protecting minors)**

(1) Content which is likely to impair the physical, mental or moral development of minors, broadcast without technical protection, shall be marked with appropriate graphic identification that will be clearly visible on the screen for its entire duration.

(2) Graphic identification relates to the following categories of content and apply as follows:

- a) Category 12+: content not suitable for minors under the age of 12 shall be broadcast between 20:00 to 06:00, including but not limited to:
  - a) content which occasionally displays scenes of violence and consequences of the violence, without showing the detailed scenes of the same, and which have a strong editorial/artistic justification;
  - b) content which displays natural nudity without sexual context, and scenes of sexual activities that are short and presented in a discreet manner;
  - c) content in which mild profanity, justifiable by context, is occasionally represented.
- b) Category 16+: content not suitable for minors under the age of 16 shall be broadcast between 22:00 and 06:00, including but not limited to:



- content which occasionally displays scenes of moderate violence and consequences of violence, including a detailed portrayal of injuries, serious wounds and blood, especially if such violence is presented as acceptable and can be easily imitated;
  - content which displays nudity and sexual acts without explicit portrayal of sexual organs and sexual intercourse, which are justified by context and whose primary purpose is not to raise sexual arousal or stimulation of the audience;
  - moderate use of inappropriate language with jokes and expressions intended to provoke and harass, and moderate use of profanities and expletives.
- c) Category 18+: content not suitable for minors under the age of 18 shall be broadcast between 24:00 and 06:00, including but not limited to:
- a) depictions of serious violence and serious and frightening consequences of violence and the explicit depiction of scenes of sexual violence;
  - b) detailed depictions of sexual activities in content whose primary intention is not to raise sexual arousal or stimulation of the audience;
  - c) Content whose primary intention is to raise sexual arousal or stimulation of the audience, and which shows nudity in seductive, provocative sexual positions without explicit portrayal of sexual organs during sexual intercourse;
  - d) Content in which harsh profanity and vulgar expressions are often used.

(3) Content not containing elements which is likely to impair the physical, mental or moral development of minors can be broadcast without a time limit and do not include graphic identification of categorisation.

(4) Content referred to in paragraph (2) of this Article can be broadcast without a time limit in on-demand media services, with the obligation of placement of graphic identification of categorisation in the catalogue of the offered content. Content that falls under the category of 18+ is excluded, which can be broadcast without a time limit only with technical protection. Otherwise, this content will be broadcast between 24:00 and 06:00 hours.

(5) Content announcements referred to in paragraph (2) of this Article shall not include descriptions and scenes that are likely to impair the physical, mental or moral development of minors. Such content announcements will include graphic identification which determines the category to which such content belongs.

(6) This Article applies to the content of radio media services, provided that the categorising of content is done using an appropriate audio warning at the start and after each break in such content.

## ***b) Code on Commercial Communications***

### **Article 3**

#### **(General Principles of Commercial Communications)**

(12) Commercial communications that directly or indirectly refer to erotic content or pornography (hot-lines, advertising and teleshopping of pornographic maga-

zines, films, etc.) may be broadcast in the period between 24:00 and 06:00 hours only. This restriction does not apply to the content broadcast with technical protection, or to on-demand media services.

(13) Commercial communications that in any way promote paranormal phenomena and parapsychology, or any other related services, may be broadcast in the period between 24:00 and 06:00 hours only. This restriction does not apply to the content broadcast with technical protection, or to on-demand media services.

## **Article 5**

### **(Commercial Communications of Certain Products and Services)**

(2) Commercial communications related to all kinds of alcoholic beverages shall not:

- c) be aimed specifically at minors, and persons appearing in commercial communications that are associated with the consumption of alcoholic beverages shall not be minors nor look like minors;
- d) link the consumption of alcohol with improved physical abilities or driving a motor vehicle;
- e) claim that alcohol has medicinal properties, that it is a stimulant, a sedative or a means of resolving personal problems;
- f) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- g) put emphasis on elevated alcohol content as a positive quality of alcoholic beverages;
- h) create the impression that consumption of alcohol contributes to social or sexual success.

## **Article 6**

### **(Commercial Communications and Minors)**

(1) Commercial communications that encourage behaviour that might impair the health, mental and/or moral development of minors shall be prohibited.

(2) Commercial communications aimed at or featuring minors shall avoid anything that might harm their interests and shall have regard to their special susceptibilities.

(3) Commercial communications aimed at minors shall not:

- 1. contain false information about a product or service, particularly in terms of its actual size, value, nature, durability, speed, colour and other characteristics;
- 2. in addition to information on the price, contain a value judgement about the price, and in particular phrases like 'only', 'for mere', 'dirt-cheap', 'affordable', etc.;
- 3. recommend a product or service which is not suitable for them;
- 4. recommend medicines, medical treatments, aids and devices, including medical institutions, means of regulating body weight, ignition devices,

inflammable and other hazardous substances, convey religious messages and contain erotic content;

5. show a minor in dangerous situations, such as climbing onto unsecured objects, entering unfamiliar spaces, conversing with unknown people, using matches, lighters, petrol, medicines and household electrical appliances, etc., unless such commercial communications serve the purpose of indicating the danger to the health and safety of minors;
6. display violence, including scenes of violence between animated characters, puppets, etc.;
7. suggest that the use of certain products or services may result in enhanced physical, intellectual or other social skills;
8. contain messages that directly encourage minors to buy or hire a product or service by exploiting their inexperience or credulity;
9. directly encourage minors to persuade their parents or others to purchase products or services that are being promoted;
10. exploit the special trust that minors place in their parents, guardians or other legally responsible persons, teachers or other persons;
11. suggest social discrimination based on physical appearance, other aesthetic categories or success based on weight loss.

(4) If the commercial communications show the result of drawing, drafting, assembly and modelling, the ability to achieve this result shall match the average ability of minors for which the commercial communications are intended. In such commercial communications, the age of the minor for which they are intended shall be noted.

## **Article 8** **(Scheduling of Television Advertising and Teleshopping)**

(5) News and children's programmes shall not be interrupted by television advertising and/or teleshopping if their scheduled duration is thirty (30) minutes or less. If the scheduled duration of such programmes is greater than 30 minutes, the provisions of paragraph (4) of this Article shall apply. No television advertising or teleshopping shall be inserted during religious services.

(6) Advertising of alcoholic beverages, beer, medicines, medical treatments, aids and devices, including dietary supplements, medical institutions, means of regulating body weight, ignition devices, inflammable and other hazardous substances, religious messages and games of chance shall not be broadcast 15 minutes before, during and 15 minutes after a children's programme.

## **Article 12** **(Scheduling of Advertising and Teleshopping in Radio Programmes)**

(4) Advertising of alcoholic beverages, beer, medicines, medical treatments, aids and devices, including dietary supplements, medical institutions, means of regulating body weight, ignition devices, inflammable and other hazardous substances, religious messages and games of chance shall not be broadcast 15 minutes before, during and 15 minutes after a children's programme.

## **Article 18 (General Principles of Product Placement)**

(1) Product placement shall be prohibited, except in:

(3) cinematographic works, films and series made for audiovisual media services and radio media services, sports programmes and light entertainment programmes. This derogation shall not apply to children's and religious programmes from the listed categories;

**CRA prepared Guidelines for the implementation of aforementioned Codes. Additionally, CRA commissioned a study: "Influence of TV content on children – Guidelines for classification of TV content", by Dr. Ivana Zečević, funded by: UNICEF, all available at: [www.rak.ba](http://www.rak.ba).**

## **SELF-REGULATION**

### ***Press and Online Media Code of Bosnia and Herzegovina***

#### **Article 11 – Protection of Children and Minors**

When treating children and minors, journalists have the obligation to be extremely careful, respecting ethical norms and the Convention on Children's Rights, starting with the child's interest. Journalists are obligated to protect the child's identity in procedures not involving the public. Journalists shall not interview or photograph children under the age of 18, regarding matters involving the child's family, in the absence of or without the consent of a parent or guardian. Journalists shall not identify children under the age of 18 when they are victims of crimes. Journalists must not, under any circumstances, identify children under the age of 18 who are involved in criminal cases as witnesses, victims or defendants.

## CROATIA LEGAL AND INSTITUTIONAL CONTEXT

### 1. National Regulatory Authority establishment, mandate and powers

**T**he Electronic Media Council, the National Regulatory Authority of the Republic of Croatia, manages the Electronic Media Agency (AEM) and carries out the duties of a regulatory body in the area of electronic media in Croatia. The Council has seven members, one of which is the Director of the Agency, who acts as president. The president and other members of the Council are appointed for a five-year term by the Croatian Parliament upon the proposal of the Government of the Republic of Croatia. The Electronic Media Agency is in itself not a “converged” regulator, as it shares its competences with HAKOM (Croatian Post and Electronic Communications Agency) which deals with frequency allocation. The law relating to electronic media, the Electronic Media Act, regulates the rights, obligations and responsibilities of legal and natural persons that provide audio and audiovisual media services and services of electronic publications by electronic communication networks, and the interest of the Republic of Croatia in the field of electronic media. AEM competences cover the regulation of audiovisual and audio media services, including supervision over programmes, protection of minors and the development of pluralism. Additionally, AEM ensures fair competition, conducting the procedure of granting concessions, monitoring the purposeful spending of the Fund for Promotion of Pluralism and Diversity of Electronic Media, encourages and oversees research and related activities, promoting media literacy and other competencies based on Article 69 of the Electronic Media Act.

Website: [www.e-mediji.hr](http://www.e-mediji.hr)

### 2. Legislation related to the protection of minors

#### *a) Electronic Media Act*

##### **Article 16**

(6) Audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages.

(8) Audiovisual commercial communications shall not: – cause physical or moral detriment to minors; – directly encourage minors to buy or hire a product or service by exploiting their inexperience or credulity; – directly encourage minors to persuade their parents or others to purchase the goods or services being advertised; – exploit the special trust minors place in parents, teachers or other persons; or – unreasonably show minors in dangerous situations.

(9) Pursuant to Article 10 of this Act, media service providers may develop codes of conduct regarding inappropriate audiovisual commercial communication, included in or accompanying children’s programmes, of foods and beverages containing nutrients and substances with a nutritional or physiological effect, in particular those

such as fat, trans-fatty acids, salt/sodium and sugars, excessive intakes of which in the overall diet are not recommended.

### **Article 20**

(1) The on-demand audiovisual media services which might seriously impair the physical, mental or moral development of minors are only available in such a way that ensures that minors will not in normal circumstances hear or see such on-demand audiovisual media services.

(2) The Electronic Media Council shall prescribe by the ordinance referred to in Article 26 paragraph 4 of this Act the appropriate measures for the conduct of the media service providers in the event referred to in paragraph 1 of this Article.

### **Article 26**

- In audiovisual or radio programmes, it shall be prohibited:
  - to publish footage which offends human dignity,
  - to publish footage which especially contains immoral and pornographic content,
  - in any manner to encourage, promote and glorify violence and crime and encourage citizens, especially children and young people, to use tobacco products, alcohol or drugs.

(2) Audiovisual or radio programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence shall be prohibited.

(3) The broadcasting of audiovisual or radio programmes which are likely to impair the physical, mental or moral development of minors shall be prohibited, except where it is ensured by the television or radio broadcaster, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts. When such programmes are broadcast in unencoded form, the broadcaster shall ensure that they are preceded by an acoustic warning or are identified by the presence of visual symbols throughout their duration.

### **Article 30**

2. In advertising and teleshopping aimed at minors or using minors, anything that could jeopardise their interests shall be avoided, their particular sensitivity and susceptibility shall be taken into consideration, and moral or physical detriment to minors shall not be caused.

### **Article 31**

(4) Advertising and teleshopping for alcohol and alcoholic beverages shall be prohibited, unless the Food Act, and the subordinate legislation passed by virtue thereof, provide otherwise.

(5) Advertising and teleshopping for alcohol and alcoholic beverages referred to in paragraph 4 of this Article shall comply with the following criteria: – it may not

be aimed specifically at minors or, in particular, depict minors consuming these beverages,

## ***b) Ordinance On The Protection Of Minors In Electronic Media***

### **Article 2**

(1) Programmes that are likely to be able to impair the physical, mental or moral development of minors include all types of programmes with scenes depicting explicit physical and/or verbal violence, frightening scenes of deaths or wounding, sex and sexual exploitation, vulgar language and scenes, abuse of tobacco, alcohol, narcotics, gambling, betting and other scenes.

(2) The programmes referred to in Paragraph 1 shall not be considered harmful if they serve to illustrate in an appropriate and meaningful manner or treat the subject in educational, formational, documentary, scientific and current affairs programmes.

### **Article 3**

(1) When there is information about any form of violence in which, as a witness, a minor is involved as a victim or perpetrator, or a minor has attempted or committed suicide, the minor's identity must always be protected using a misty, pixelated or masked image and a modulated tone so that the minor cannot be recognised. Such information shall disclose neither the details about family relationships nor private life, nor mention the name, surname, or other information that could lead to identification of the minor and/or threaten the minor's well-being.

(2) Personal data on minors and details about family relationships including the minor's private life shall not be published in cases where the disclosure of such information is likely to be able to jeopardise the minor's well-being.

(3) In broadcasted shows referred to in Paragraph 2 of this Article, identities shall be protected as stipulated in Paragraph 1.

### **Article 4**

Footage in current affairs programmes likely to impair the physical, mental or moral development of minors are to be announced with a warning about disturbing or violent scenes.

### **Article 5**

(1) Audiovisual commercial communications must not be physically, mentally or morally harmful to minors, nor directly encourage them to buy or rent goods and services, meaning minors personally or through their parents or other persons of their trust.

(2) Programmes aimed at minors and shown in audiovisual commercial communications relating to food and beverages of which excessive use in general diet is not recommended shall not use public figures nor popular characters from animated and feature-length films.

(3) Media service providers may not broadcast audiovisual commercial messages in programmes aimed at minors where such messages promote the cult of the body, gender, age or racial stereotypes and/or discrimination. Furthermore, it is prohibited to broadcast audiovisual commercial messages that promote societal discrimination because of physical appearance or that promote success based on weight loss or based on other aesthetic categories.

(4) The advertising of alcoholic beverages must not be aimed at minors, and in particular, they should not be shown consuming alcohol.

(5) Minors must not be shown in an unreasonable or attractive manner in audiovisual commercial communications in health- or life-threatening situations.

### **Article 6**

It is prohibited to publish pornographic content in unencrypted channels.

### **Article 7**

Regardless of the consent of parents, guardians or caregivers to participate in programmes, minors may not be insulted or belittled on any grounds.

## **3. The conduct of television media service providers**

### **Article 8**

(1) If the programmes that are likely to be able to impair the physical, mental or moral development of minors or compromise their integrity, self-perception, self-esteem or identity are broadcast in unencoded form, the media service provider shall ensure that they can be identified by visual symbols throughout their entire duration.

(2) The visual symbol by which it is possible to identify the programmes referred to in Paragraph 1 of this Article is a graphical sign in the top corner of the screen (as opposed to the usual position for symbols identifying the media service provider).

(3) If the programmes that are likely to be able to impair the physical, mental or moral development of minors or compromise their integrity, self-concept, self-esteem or identity are broadcast in coded form, the media service provider shall ensure that they can be recognised by a visual symbol that is broadcast just prior to the commencement of the programme.

(4) The visual symbols that make it is possible to identify the programmes referred to in Paragraph 3 are written warnings immediately prior to the broadcasting of the programmes. The content of the written warning is as follows:

- “The following programme is not suitable for persons under the age of 12 years” - “The following programme is not suitable for persons under the age of 15 years” - “The following programme is not suitable for persons under the age of 18 years”.



## Article 9

(1) Graphical signs (circles) are related to the following programme categories and are applied in the following manner:

1. Category 18 These programmes are intended for viewers older than 18 years of age and may not be shown between the hours of 7.00 am to 11.00 pm. The media service provider shall ensure that such programmes are identifiable for their entire duration by the following sign: Transparent circle inscribed with the red number 18.
2. Category 15 These programmes are intended for viewers over 15 years of age and may not be shown between the hours of 7.00 am and 8.00 pm. The media service provider shall ensure that such programmes are identifiable for their entire duration by the following sign: Transparent circle inscribed with the orange numeral 15.
3. Category 12 The media service provider shall ensure that such programmes are identifiable for their entire duration by the following symbol: Transparent circle inscribed with the green number 12. The media service provider shall ensure that programmes that are not suitable for persons under 12 years of age are preceded by an audible warning that says: "The following programme is not suitable for persons under the age of 12 years."

## Article 10

(1) When designating adopted programmes, media service providers may take into account already existing signs, but such signs may not be below the standards stipulated by this Ordinance.

(2) Media service providers are recommended to adopt film categorisations from the database of the Croatian Audiovisual Centre.

(3) Media service providers are responsible for designating all programmes, especially designating the content of their own production.

## Article 11

(1) The graphical signs (circles) must be located in the upper part of the screen.

(2) Media service providers shall create the graphical signs (circles) referred to in Article 10 of this Ordinance according to their usual design.

(3) The graphical signs (circles) shall not be smaller than the usual sign (logo) of the media service provider.

(4) Colour tones of the graphical signs (circles) are determined by the media service providers themselves, but the signs must be clearly visible on the screen.

## Article 12

(1) Programmes that deal with gambling, fortune-telling, provide advice by referring to cards, divination and other similar services that are not scientifically substantiated cannot be broadcast before 11.00 pm and shall be designated by the appropriate graphical sign.

(2) The programmes referred to in Paragraph 1 of this Article may not make statements asserting that future events can be predicted, except as a matter of one's opinion, or that contact is made with deceased persons nor statements relating to the question of health, means of medical treatment, medical treatment and/or healing.

(3) Media service providers shall communicate information in a clear and continuously manner that the advice and/or prophecies of future events are intended for entertainment and adapt the communication of the persons providing the advice.

### **Article 13**

(1) Television announcements of programmes must be appropriate for the period in which the announcements are broadcasted and may not contain inappropriate scenes during that period. (2) The media service provider shall publish the information on the category referred to in Article 10 during each announcement and in teletext programme schedules, in electronic programme guides, on the Web and other forms of information on programme content.

(3) Each programme re-run by a television media service provider is subject to the provisions of this Ordinance.

### ***b) Conduct of on-demand media service providers***

### **Article 14**

(1) If an on-demand media service provider publishes programmes that are likely to be able to impair the physical, mental or moral development of minors or jeopardise their integrity, self-perception, self-esteem or identity, the on-demand media service provider shall ensure that such programmes can be identified by means of visual symbols.

(2) The visual symbols that allow identification of such programmes are written signs and offers in a particular services catalogue.

(3) The categories referred to in Article 10 are applied in an appropriate manner also by on-demand media service providers. (4) When first accessing the particular catalogue, the media service provider shall insist on having the PIN changed.

### ***(1) Conduct of providers of electronic publications***

### **Article 15**

(1) If programmes that are likely to be able to impair the physical, mental or moral development of minors or jeopardise their integrity, self-perception, self-esteem or identity are published in an electronic publication, the provider of electronic publications shall ensure that inappropriate images or content are not published on the front page.

(2) Visual symbol by which it is possible to identify such programmes are written warnings indicating that the content is not suitable for persons under 18 years of age.

#### *d) Conduct of radio media service providers*

##### **Article 16**

(1) If programmes that are likely to be able to impair the physical, mental or moral development of minors or jeopardise their integrity, self-perception, self-esteem or identity are broadcast in encoded form, the media service provider shall ensure that they can be recognised by audio symbols.

(2) The audio symbols by which it is possible to identify such programmes are an audible warning emitted immediately prior to the commencement of the programme and the read warning: “The following programme is not suitable for persons under 18 years of age.”

(3) The categories referred to in Article 10 of this Ordinance are also applied by the radio media service providers.

##### **Article 17**

The provisions of Articles 13 and 14 of this Ordinance are also applied in the appropriate manner by radio media service providers.

## **KOSOVO\***

### **LEGAL AND INSTITUTIONAL CONTEXT**

#### **1. National Regulatory Authority establishment, mandate and powers**

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**T**he National Regulatory Authority is the Independent Media Commission (IMC), established by the Constitution and Law no. 04/L-44 on the Independent Media Commission. IMC is an independent body, responsible for the regulation of audio and audiovisual media services, including adoption of sub-legislation, licencing procedures, management and supervision of the broadcasting frequency spectrum, determination and collection of licence fees, as well as imposition of sanctions for breaches of rules and regulations. The IMC is in charge of preparation of strategy documents, such as that related to transition to digital broadcasting, as well as other strategic documents for audiovisual media services, for approval by the Government. The IMC consists of: Commission, Chief Executive Office and Appeals Board. Members of Commission and Appeals Board are elected by the Assembly, while the Chief Executive Officer is appointed by the Commission. The decisions of the IMC can be appealed to the Appeals Board. Consequently, the second-instance appellate procedure can be initiated before the Court.

Website: [www.kpm-ks.org](http://www.kpm-ks.org).

The IMC prepares annual reports, which are published, following its approval by the Assembly.

#### **2. Legislation related to protection of minors**

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##### ***a) Constitution***

###### **Article 50**

###### **[Rights of Children]**

1. Children enjoy the right to protection and care necessary for their wellbeing.
2. Children born out of wedlock have equal rights to those born in marriage.
3. Every child enjoys the right to be protected from violence, maltreatment and exploitation.
4. All actions undertaken by public or private authorities concerning children shall be in the best interest of the children.
5. Every child enjoys the right to regular personal relations and direct contact with their parents, unless a competent institution determines that this is in contradiction with the best interest of the child.

##### ***b) Law no. 04/L-044 on the Independent Media Commission***

###### **Article 2**

###### **Definitions**

- 1.17. Protection of minors in television broadcasting – the guarantee of children’s and minors’ protection from programme content which can negatively influence

their physical, mental, emotional and moral development, and especially those showing pornography and undue violence.

## **Article 27** **Commercial Communications**

8. Commercial audiovisual communications shall not:

- 8.1. cause physical or ethic damage towards minors;
- 8.2. encourage directly minors to buy or rent a product or service through inexperience use or their credulity;
- 8.3. encourage directly minors to convince their parents or others to buy goods or services that are advertised;
- 8.4. embrace the special trust that minors enjoy from parents, teachers or other persons;
- 8.5. show in unreasonable way minors in dangerous situations.

11. 11. Children programmes, when their duration is less than thirty (30) minutes, shall not be interrupted by advertising spots and/or teleshopping. Children's programmes may be interrupted by advertisements or/and teleshopping once in each determined period of at least thirty (30) minutes, provided that the foreseen duration of program to be longer than thirty (30) minutes.

13. 13. Advertising and teleshopping for alcohol and alcoholic drinks should be in compliance with the following criteria:

13.1. Cannot be orientated especially towards minors, or particularly, to show the minors consuming those drinks;

17. Audiovisual or radio-ponic programmes which can heavily damage the physical, mental or ethic development of minors, particularly programmes that include pornography or undue violation, shall be prohibited.

18. Broadcasting of audiovisual and radio-ponic programmes that may obstruct the physical, mental or ethic development of minors shall be prohibited, except in cases when they are provided by a television or radio-ponic broadcaster, choosing the time of broadcasting, or by any technical measure, that minors do not hear or watch such broadcastings in the areas of broadcasting. When those programmes are broadcast in un-coded way, broadcaster should ensure that they shall be preceded by a voice remark or shall be identified by the presence of visual symbols during all their duration.

## **Article 31** **Sponsorship**

5. The showing of sponsoring logos during children's programmes and religious programmes is prohibited.

## **Article 32** **Product placement**

1. Product placement is prohibited.

2. Notwithstanding paragraph 1 of this Article, product placement shall be permitted:
- 2.1. in cinematographic works, films and serials that are created for audiovisual media services, sports programmes and entertaining programmes, excluding programmes for children; or

### **Article 33**

#### **Protection of children and minors**

1. IMC will undertake appropriate measures to ensure that television broadcasters by broadcasters under their jurisdiction shall include no program which might seriously damage the physical, mental and ethic development of minors, in particular programmes with a pornographic content or extreme violence.
2. Measures provided from paragraph 1 of this Article shall also have the effect in other programmes which might damage the physical, mental and ethic development of minors except the cases when it was ensured, by selecting the time by the broadcaster or by any technical measure, that the minors in the area of broadcasting will not see or hear such broadcasting.
3. Meantime, when such programmes are broadcast in an un-coded way, IMC will ensure that they shall be accompanied by an acoustic remark or shall be identified by the presence of a visual symbol in their duration.
4. Audiovisual media services with payment that may seriously damage the physical, mental and ethic development of minors shall be available only in the way that it is ensured that the minors, in normal circumstances, will not see or hear such audiovisual media services with payment.

#### ***c) IMC 2013/01 Regulation on the Protection of Children and Minors in Audio-Visual Services***

### **Article 1**

#### **Purpose**

This Regulation shall ensure protection of children and minors from programme content which negatively affect their physical, mental or moral development, or reveal their identity.

The regulation determines the manner of categorisation, forms of warning, as well as time slots for broadcasting of the programming, which might negatively impact the physical, mental or moral development of children and minors, in particular programmes that involve pornography or gratuitous violence.

### **Article 2**

#### **Definitions**

1. Term “child” implies persons until the age of 14.
2. Term “minor” implies persons between the age of 14 and 18.
3. Term “watershed” is time in radio/television schedules which divides the period when it is permissible to show radio/television programming which have adult content from the period when it is not. The “watershed” starts at 24:00 and ends at

05:00. In the subscription services that are not PIN protected, the watershed shall also be from 24:00 to 05:00.

4. Term “gratuitous violence” means intentional use of physical, mechanic or any other force to harm, injure or mistreat.

5. Term “fear” implies an emotion, often powerful, which is reaction to anticipation of danger, evil and pain, regardless of the fact this threat is realistic or perceived.

6. Term “erotic content” refers to programming content focusing on sexual desires, clearly depicting the sexual act and showing respective erogenous zones in the human body with final reference to the sexual act, however not clearly showing persons engaged in a sexual act.

7. Term “pornography” refers to programming content, showing in a clear and open manner the human sexual organs or a sexual act.

8. Term “programming with harmful content” refers to programming, impairing the physical, mental or moral development of children and minors.

Programmes under item 8 include, but are not limited to the following content:

8.1 Content with physical, verbal, gesticulation, emotional, sexual violence or depicted via special effects. Violence shown in specific artistic programming shall be placed within the context of content, provide educative messages, which can be easily understood by children as well as the general public. This shall imply that violent scenes are not to be a purpose.

8.2 Content with sexual scenes may be shown within the context of scientific, education, documentary or information programming. Such content shall avoid sexual scenes of exhibitionism, nudism, sexual violence and gender discrimination. Such content shall be assessed based on the purpose of each sexual scene, by assessing the suitability of that respective purpose in relation to the age of the viewers.

8.3. Content and programming containing gambling, fortune telling, card reading, psychic services and similar which are not scientifically proven.

### **Article 3**

#### **Limitations and General Obligations**

1. Audio-visual Media Services shall not broadcast programming with harmful content for children, except in the time slots and conditions provided in this Regulation.

2. Audio-visual Media Services, broadcasting radio programming with harmful content for children, shall be obliged to apply respective acoustic warnings.

3. Audio-visual Media Services, broadcasting radio/TV programming with harmful content for children, shall be obliged to apply respective acoustic and textual warnings and identify them with respective visual symbols during the whole duration of the programming, in accordance with the categorisation of the programmes provided in this Regulation.

4. Audio-visual Media Services may broadcast programming with pornographic content, only in the manner encrypted by the code and in accordance with Article 4.1.4 of this Regulation.

5. In accordance with this Regulation, audio-visual media services shall determine self-regulatory standards (Code of Practice) for broadcasting of programming which may impair the development of children and minors, as well as establish monitoring mechanisms for implementation of these standards.

6. After producing the Code of Practice, each audio-visual media service shall provide the IMC with a copy, not later than three (3) months after entry into force of this Regulation. Audio-visual Media Services may present this Code of Practice individually or in a group.

7. At the request of the IMC, audio-visual media services shall present detailed information on implementation of the self-regulatory standards of the Code of Practice, within three (3) working days.

#### **Article 4**

##### **Protection of Identity and Respecting the Dignity of Children and Minors in Programmes**

1. Due care shall be dedicated to the dignity of children and minors who are part of, or are included in programmes. This rule shall apply regardless of any consent given by the parent, legal guardian or any other person above 18 years of age, representing the minor.

2. It shall not be permitted to publish information revealing the identity of a child up to 18 years of age involved in cases of any type of violence, regardless of the child's status as witness, victim or perpetrator, or in cases of attempted suicide or committed suicide, as well as to introduce details of a child's family affairs and private life.

3. For information on any form of violence and a minor's role in it, the minor's identity shall be at all times protected by a blurred, pixilated or masked image and a modulated tone so that the minor shall not be recognised. Such information shall not reveal any detail of the child's family relations or private life.

4. Personal data on minors as well as details of their family relations and private life shall not be broadcast in cases where broadcasting of such information could impair their welfare.

#### **Article 5**

##### **Categorisation of Programmes**

1. First category shall include programmes without harmful content

2. Second category shall include programmes not recommended for children under the age of 10 and for which parental or guardian presence is required. This category refers to programmes with scenes and images of violence and fear. Broadcasting of these programmes shall be announced and accompanied by the respective warning.

3. Third category shall include programmes with scenes or images of violence and fear, as well as erotic content, repeating relatively often. These harmful program



content shall not be recommended to the children under the age of 14. For the programmes of the third category, parental or guardian presence is required. Broadcasting of these programmes shall be announced and accompanied by the respective warning.

4. Fourth category shall include programmes with continuous scenes or images of gratuitous violence, fear, pornographic content and programmes containing gambling, fortune telling, card reading, psychic as well as other similar not scientifically-founded services. These programmes are not recommended for persons under the age of 18. Broadcasting of programmes with continuous content of violence and fear shall be announced and accompanied by the respective warning. Programmes with pornographic content may be broadcast only in a coded manner.




## **Article 6** **Broadcasting Time**

1. Broadcasting of the programmes from the first category shall not be subject to any time limits.
2. Broadcasting of the programmes from the second category shall be done from 15:00 to 06:00.
3. Broadcasting of the programmes from the third category shall be done from 22:00 to 06:00.
4. Broadcasting of the programmes from the fourth category shall be done from 24:00 to 05:00. During this period, broadcasters may broadcast programmes with pornographic content which shall be code encrypted.

## **Article 7** **Signs and Pictograms**

1. Broadcasters shall use the pictograms shown in Annex 1 of this Regulation.
2. Warning signs for the categories determined by this Article shall be mandatory for all programmes defined in the Article 5.
3. Before the start and after each interruption of the programme, the verbal and acoustic warning shall be aired.
  - 3.1 Before the start of the TV programme, the warning sign shall be shown, as a combination of textual, verbal, acoustic and visual warning, for a duration of 10 seconds and covering at least  $\frac{1}{4}$  of the visible part of the screen. The wording of the written/textual warning shall be: "The following programme is not suitable for children or minors".
  - 3.2 During the TV programme, only the visual warning of the sign, with dimensions at a minimum of  $\frac{1}{48}$  and maximum  $\frac{1}{32}$ , shall be shown in the corner of the screen.
  - 3.2 Programmes of the fourth category shall not be promoted before 24:00.
  - 3.4 Programme schedules published on teletext or in the daily press shall reflect also the visual signs for the relevant category of the programmes.

## Annex

Category	Classification	Sign
Category 1	No visual warning is applied.	
Category 2	Parental/Guardian guidance required or forbidden to minors under the age of 10.	
Category 3	Adult viewers; forbidden to minors under the age of 14.	
Category 4	Adult viewers; forbidden to persons under the age of 18.	

### *d) IMC-2016/03 Code of Ethics for Media Service Providers*

#### **Article 4**

##### **Vulgar and Offensive Language**

3. Media service providers should not broadcast before the watershed (from 24:00 to 05:00) any material that contains vulgar and offensive language.
4. Vulgar or offensive language will not be used in programmes aimed at children and minors, except in special cases assessed according to context.
5. In live programmes (debate / interview etc.), it is obligation of media service providers to take appropriate action to avoid the use of vulgar or offensive language by participants.
6. Vulgar and offensive language must not be used in broadcasting before the watershed (in the case of television) or particularly when children are likely to be listening (in the case of radio), unless this is justified by the context.

#### **Article 9**

##### **Presentation and Inclusion of Children and Minors in Programmes of Media Services Providers**

1. The right to privacy of children should always be respected. Since unnecessary publicity or incorrect tagging may damage them, children and minors who are victims of abuse or in conflict with the law should not be identified, directly or indirectly. No information that may identify them should be broadcast.
2. Unplanned surprises or interviews (“ambush”) of children and minors are prohibited.
3. Children and minor victims, suspects, accused of a crime, arrested or detained on suspicion of wrongdoing, as well as children and minors who are going through a court process, should be protected from other suffering, distress or trauma; they

should be interviewed only with the consent of their parents or legal guardian, unless the parent or guardian is charged. The interview should be carried out only with the authority and supervision of lawyers, psychologists or social workers qualified and responsible for their welfare.

4. Children will not be required, forced or bribed to remember and show the traumatic experiences, acts, or demonstrate or describe them in graphic detail.

5. Media service providers should not broadcast interviews or photographs of children under the age of 14 about issues that are related to their families, without the prior consent of a parent or an adult who is responsible for the child.

6. Media service providers should not identify children, under age 14, who are involved in criminal activities, either as witnesses or defendants.

7. The use and presence of children in various promotional spots of political parties is not permitted.

8. Media service providers need to care for the physical, emotional wellbeing and dignity of minors (under 18) who participate in the program or are involved in any other way. This applies regardless of prior consent from a parent or an adult who is responsible for the minor.

9. Media service providers have to ensure that rewards dedicated to children are appropriate for the age of the participants in the program and the targeted group of the programme.

### *e) IMC 2017/07 Regulation on Commercial and Audio-Visual Communications*

#### **Article 4**

##### **Definitions**

**27. Commercial communication aimed to minors** – communication that recommends a product or service which according to its nature, shape, quality or other reasons aims to be used exclusively or mainly by minors, regardless if they can use it on their own or with the assistance of others;

#### **Article 7**

##### **Broadcasting Commercial Communications**

2. Commercial communications that include gratuitous violence or the threat of violence shall be forbidden.

7. Commercial communications that directly or indirectly refer to pornography (hot lines, advertisement and teleshopping for pornographic magazines and movies, as well as those of an erotic nature, may only be aired between 24:00 and 06:00. This does not apply to on-demand audio-visual media services and on-demand radio media services.

8. Commercial communications that promote in any way paranormal and para-psychological phenomena or any other related service may only be aired between 24:00

and 06:00. This does not apply to on-demand audio-visual media services and on-demand radio media services.

## **Article 8**

### **Commercial Communications for Specific Products and Services**

1. All types of commercial communications for cigarettes and other tobacco products, weapons and ammunition, pyrotechnical devices and drugs are forbidden.
2. 13. Advertising and teleshopping for alcohol and alcoholic drinks shall be in compliance with the following criteria:
  - A) They shall not aim minors directly, in particular, depicting minors consuming these beverages,

## **Article 9**

### **Commercial Communications, Children and Minors**

1. Commercial communications shall not encourage any behaviour that impairs children's and minors' health, mental and moral development.
2. Commercial communications that aim or depict children or minors shall avoid anything that might damage their interests and they shall be careful with regard to their specific sensitivity.
3. Commercial communications aiming minors shall not:
  - a) False information about the product or service, especially in relation to their actual size, value, nature, durability, speed, color and other qualities;
  - b) Besides the information on the price, assessment on the content value such as "the only one", "for nothing", "trifle", "bargain" etc;
  - c) Recommend products or services that are not suitable to them;
  - d) Recommend medicines, medical treatments, accessories and equipment, including medical institutions, weight loss treatments, flammable sources, flammable substances and other dangerous equipment, carry religious messages or include erotic content;
  - c) Contain scenes of violence, including violence between cartoon characters, dolls, etc.;
  - f) Suggest that specific products or services shall give them enhanced physical, intellectual or other social capabilities;
  - g) Encourage minors directly to purchase or rent a product or service through their inexperience or credulity;
  - h) Encourage minors directly to convince their parents to purchase advertised goods or services,
  - i) Take advantage of the special trust minors enjoy from parents, teachers or other persons;
  - j) Support social discrimination based on physical appearance or other aesthetic categories, or imply success based on weight loss.

- k) Depict minors unreasonably in dangerous situations such as: climbing unsafe buildings, entering unknown premises, talking to strangers, using lighters, gasoline, medicines, home electric appliances, etc, unless such a commercial audio-visual communication depicts danger to the minor's health and safety.

4. Media service providers may establish codes of conduct for inappropriate audio-visual commercial communication, which are included in or accompany children's food and drink programming that contain nutrition and substances with nutritive or physiological effects, especially fats, trans fatty acids, salt/sodium and sugars, whose excessive consumption is not recommended in the general diet.

### **Article 10**

#### **Television Advertisement and Teleshopping Schedule**

2. Television advertisement and teleshopping shall be broadcast in blocks, except in cases specified by this Regulation. Television advertisement and teleshopping shall be inserted in the middle or during programming so that the integrity of programmes, considering natural breaks in programmes as well as the programme duration and nature, and the rights of the holders of the rights are not prejudiced.

7. Alcoholic beverages, beers, medical treatments, accessories and equipment, including food supplements, medical institutions, weight loss treatments, flammable sources, flammable substances and other dangerous equipment, as well as religious messages shall not be advertised immediately before, during or after children's programmes.

### **Article 12**

#### **Split-screen Advertisement, Tele-promotion and Virtual Advertisement**

1. Split-screen advertisement shall not be so excessive as to prevent the viewers to continue watching the editorial content and shall not be used in children's, religious, and current affairs programming. Provisions of this Regulation pertaining to the schedule and duration of television advertisement and teleshopping are applicable to split-screen advertisement.

2. Tele-promotion shall not be depicted in children's, religious, news and current affairs programming. Provisions of this Regulation pertaining to the schedule and duration of television advertisement and teleshopping are applicable to tele-promotion.

### **Article 14**

#### **Prohibited Sponsorship**

4. Showing a sponsorship logo during children's and religious programmes shall be prohibited.

### **Article 15**

#### **Product Placement**

2. Excluding paragraph 6 of this Article, product placement shall be permissible in:

2.2. Sport and light entertainment programming, excluding children programmes, or

**Article 16**  
**Erotic and Pornographic Content**

Commercial Audio-Visual Communications shall not depict products or services of pornographic content.

**Article 21**  
**Determining Commercial Audio-visual Communications**

6. Children's programmes, when their duration is less than thirty (30) minutes, shall not be interrupted by advertising spots and/or teleshopping. Broadcasting of children's programmes may be interrupted with commercial audio-visual communications or teleshopping once after at least 30 minutes, if the programme duration exceeds 30 minutes.

**Radio Media Services**

**Article 24**  
**Application**

All provisions of this Regulation shall be applicable to radio media services, excluding the Television Advertisement, Teleshopping and Product Placement Part.

**Article 25**  
**Determining Advertisement and Teleshopping Schedule in Radio Programing**

4. Advertisement of alcoholic beverages, beers, medical treatments, accessories and equipment, including food supplements, medical institutions, weight loss treatments, flammable substances and other dangerous equipment, as well as religious messages shall not be advertised immediately before, during or after children's programmes.

# MONTENEGRO

## LEGAL AND INSTITUTIONAL CONTEXT

### 1. National Regulatory Authority establishment, mandate and powers

**T**he National Regulatory Authority of Montenegro is the Agency for Electronic Media of Montenegro (AEM), established by the Law on Electronic Media. AEM's competences are: drafting of audiovisual media services Development Programme; approving draft radio frequency allocation plan; issuance of broadcasting and on-demand audiovisual media services licences; determination of licence fees; keeping a register of AVM service providers and electronic publications; deciding as per complaints regarding the operation of AVM service providers; overseeing implementation of the law; adoption and implementation of secondary legislation accompanying the law; performing other tasks. The AEM Director is the first instance body, while

The AEM Council acts as an appellate body. Administrative dispute procedure can be initiated before the Administrative Court of Montenegro. Procedure can be initiated before the Constitutional Court of Montenegro against any rulebook or other general by-laws regulating the work of the audiovisual media service providers.

Website: [www.ardcg.org](http://www.ardcg.org).

All decisions related to the complaints' procedures or ex officio procedures in relation to licence condition breaches are published on the website. Also, all annual financial and operational plans and reports as well as annual audit reports are published on the website.

### 2. Legislation related to protection of minors

#### *a) Criminal Code of Montenegro*

##### **Definition of terms used in this Code**

##### **Article 142**

...

(7) A child is a person who has not reached the age of fourteen.

(8) A juvenile/ minor is a person who has reached the age of fourteen, but not the age of eighteen.

(9) An underage person is a person who has not yet reached the age of eighteen.

...

## **Violation of confidentiality of procedure**

### **Article 391**

(1) A person who discloses without authorization information obtained in a court, misdemeanour, administrative or other procedure prescribed by the law, when such information cannot be disclosed according to the law, or such information is declared confidential by the decision of a court or other competent authority, shall be punished with a fine or imprisonment for a term not exceeding one year.

(2) Punishment referred to in Paragraph 1 of this Article shall also be imposed on a person who, without the permission of the court, discloses the course of the criminal proceedings against a minor or the decision passed in such proceedings, or who discloses the name of a minor who is being prosecuted or the data revealing the identity of the minor.

## ***b) Criminal Procedure Code***

### **Exclusion of Public**

#### **Article 314**

From the opening of the session to the conclusion of the main hearing, the Panel may, at any time, ex officio or at the motion of the parties, having by duty heard their statements, exclude the public from the entire main hearing or any part of it, if that is necessary for keeping information confidential, protecting public order, preserving morality, protecting the interests of a minor or protecting the personal or family life of the accused person or the injured party.

## ***c) Law on Treatment of Minors in Criminal Proceedings***

### **Publication of data on proceedings against a minor**

#### **Article 56**

(1) Data on proceeding against a minor, a decision rendered in such a proceeding or data about minors as parties to the proceeding may not be published in the media.

(2) Notwithstanding paragraph 1 above, the court may authorise publication of data on the proceeding or the decision rendered in a minor proceeding provided that they do not reveal the minor's name or other data that may reveal the identity of the minor, or their legal custodian.

### **Exclusion of the Public**

#### **Article 84**

(1) When adjudicating a minor, the court shall always exclude the public.

(2) The minor judge or the presiding judge of the Minor Panel may, by exception, allow persons engaged in protection and education of minors and scholars to attend the main hearing.

(3) During the main hearing the court may order that, except for the minor state prosecutor, defence counsel and guardianship authority representative, all or some persons be removed from the session.



(4) During the presentation of certain evidence or closing arguments of the parties, the court may order that the minor be removed from the session, where necessary for the protection of their personality.

(5) Once the minor who has been removed from the session returns to the courtroom, the minor judge or the presiding judge of the Minor Panel shall briefly acquaint the minor with the actions conducted during their removal.

### **Special provisions on the protection of minors as participants in criminal proceedings**

#### **Application**

##### **Article 90**

The provisions of this Title shall apply to a minor injured by the offence or a minor heard in criminal proceedings in the capacity of a witness

##### **Article 91**

(1) Parties to the proceedings, authorities and institutions that information, reports or opinions are sought from, are obliged to take due care in protecting the privacy of a minor, including the protection of identity and data which may reveal the identity.

(2) No information that might reveal the identity of a minor injured by the offence or being a witness in the proceedings shall be published without the explicit approval of the judge, or the minor prosecutor acting on the case.

#### ***d) Law on Electronic Media***

##### **Restrictions on reception and retransmission of AVM services**

##### **Article 6**

...

2) For AVM service on demand:

- the provision of services endangering or seriously threatening to jeopardise the prevention, investigation, prosecution and detection of criminal offenses, the protection of minors, the fight against incitement to hatred based on race, sex, religion or nationality, endangering dignity, protecting public health and public safety, national security and defense or consumer protection, including investors;

...

#### **Bans**

##### **Article 48**

...

(3) The publication of information revealing the identity of a minor under 18 years of age involved in any case of violence, regardless of whether said being is a witness, a victim or an offender, or disclosing any particulars of the family relations and private life of a child shall be prohibited.

## **Programme-related obligations of broadcasters**

### **Article 55**

3. A broadcaster is obliged to respect the privacy and dignity of citizens and protect the integrity of minors.

4. A broadcaster is obliged to publish audio and visual warning for programmes which may impair the physical, health, moral, mental, intellectual, emotional and social development of minors and clearly identify such programmes by the presence of a visual symbol throughout their duration and to broadcast such programmes at the time and in the manner in which it is least likely that minors will normally hear or see it.

5. Transmission of programmes referred to in paragraph 2 above outside the watershed to be established by Council shall be prohibited.

6. Transmission of programmes containing pornography or the content of which emphasise and support violence, drug addiction or similar forms of criminal conduct, as well as programmes exploiting credulity of viewers or listeners shall be prohibited.

## **Obligations of on-demand AVM service providers**

### **Article 82**

7. An on-demand AVM service provider is obliged to make available a service which may impair the physical, mental or moral development of minors only in the manner ensuring that minors will not normally hear or see such broadcasts.

8. The modalities for actions by AVM service providers from paragraph 1 above shall be set by the Council.

## **Protection of minors**

### **Article 86**

Audiovisual commercial communication shall not:

- 1) cause tangible or intangible detriment to minors;
- 2) directly exhort minors to buy or hire a product or a service by exploiting their inexperience or credulity;
- 3) directly encourage minors to persuade their parents or others to purchase the goods or services being advertised;
- 4) exploit the special trust minors place in parents, teachers or other persons;
- 5) unreasonably show minors in dangerous situations.

## **Misdemeanour offenses**

### **Article 146**

(1) A legal person shall be punishable by a fine ranging from 500 to 6 000 euros if it:

...

- 4) fails to provide a due warning for programmes which may impair the physical, health, moral, mental, intellectual, emotional and social devel-

opment of minors or clearly identify such programmes by the presence of a visual symbol throughout their duration or to broadcast such programmes at the time and in the manner in which it is least likely that minors will normally hear or see it (Art. 55 paragraph 2);

- 5) transmits programmes which may impair the physical, health, moral, mental, intellectual, emotional and social development of minors outside the watershed (Art. 55 paragraph 3);
- 6) transmits programmes containing pornography or whose content emphasise and support violence, drug addiction or similar forms of criminal conduct, or transmits programmes exploiting credulity of viewers or listeners (Art. 55 paragraph 4);

...

- 22) provides an on-demand AVM service which may impair the physical, mental or moral development of minors without ensuring that minors will not normally hear or see such broadcasts (Art. 82 paragraph 1);

...

- 41) broadcasts audiovisual commercial communication which: causes tangible or intangible detriment to minors, directly exhorts minors to buy or hire a product or a service by exploiting their inexperience or credulity, directly encourages minors to persuade their parents or others to purchase the goods or services being advertised, exploits the special trust minors place in parents, teachers or other persons, or unreasonably show minors in dangerous situations (Art. 86 paragraph 1);

...

## *e) Rulebook on Programme Standards in the Electronic Media*

### **Prohibited programmes**

#### **Article 6**

The electronic media shall be prohibited from broadcasting a programme that:

...

- c) includes pornography in an unencrypted form;
- ...
- h) could obviously impair the physical, mental or moral development or well-being of minors or other vulnerable persons;
  - i) publishes information revealing the identity of minors involved in a case of any form of violence or crime, either as witnesses, victims of perpetrators and, in that context, reveals details from the family relations and their private lives;
  - j) publishes information revealing the identity of minors involved in the cases of suicide attempt, or suicide of a minor, custody, foster care, adoption of minors, or related to the minors whose parents are serving a prison sentence;

## **Protection of privacy**

### **Article 12**

...

9. Every violation of privacy shall be justified by an overriding public interest, especially when minors and people which are not public figures or in the public spotlight are in question.

...

### **Article 14**

(1) Minors and vulnerable persons who are not capable of taking care of themselves shall not be interviewed about private matters without the written consent of their parents or guardians, except when a difficult position of minors or vulnerable persons is discussed, for the purpose of encouraging the public to provide support.

(2) In the programmes referred to in paragraph 1 of this Article, the identity and personal data of minors or vulnerable persons shall not be revealed, where there is a justified reason to believe that their publication could jeopardise their interest or dignity.

(3) The images of minors with developmental impairments shall not be used for any purpose that is not in compliance with the observance of their rights and human dignity.

## **Protection of minors**

### **Article 19**

(1) In television broadcasting, there is a watershed between 11 p.m. and 6 a.m.

(2) Programmes intended for adults only which could have a detrimental effect on or consequences for minors, shall be broadcast only within the watershed, in line with this Rulebook.

### **Article 20**

(1) When publishing information on any form of violence and the related role of minors, the identity of minors shall always be protected by scrambled or blurred image and modulated tone, making them unrecognizable.

(2) Personal data of minors and details from their family relations and private life shall not be published in the cases when it could result in the violation of their interests or dignity.

(3) The information on the course of criminal proceedings against minors and related court decisions shall not be published.

(4) A binding court decision in the proceedings against minors can be published, without providing their personal data or other information on the basis of which their identity could be established.

(5) When publishing information related to criminal cases, electronic media are obliged to pay special attention to the vulnerable position of minors involved in these cases, either as a victims, witnesses or perpetrators.

(6) Identity of a minor convicted of a crime by a binding decision may be revealed in the programme only if there is an overriding public interest.

## Article 21

(1) Minors are permitted to directly participate in programmes only with prior written consent of their parents, guardians, custodians, stepparents, or persons in charge of their care, education or training.

(2) Exceptionally, minors may participate in the news and entertainment programmes without prior consent of the persons referred to in paragraph 1 of this Article, only if it is necessary for the timely coverage of topical issues.

(3) Regardless of the consent for participation in programmes provided by the persons referred to in paragraph 1 of this Article, the minors shall not be insulted or disrespected in any way.

(4) Entertainment programmes shall not use family conflicts to entertain the audience, impairing the development of children in that way.

(5) Prizes awarded to minors shall be suitable for their age.

(6) Direct participation of minors in the programmes shall not provoke anxiety or fear of the minors, or impair their physical, mental or emotional well-being and dignity.

(7) The electronic media shall not solicit the opinion of the minors related to the private family matters or topics that can be beyond their understanding.

(8) Minors shall not participate in the programmes that include discussions about the adequacy of their custody with one parent or the other, acceptability of their departure from home, living with a foster family, or adoption, or the harm caused by the behaviour of either of the parents.

(9) Minors shall not be used for political purposes.

## Article 22

(1) The electronic media are obliged to provide prior acoustic and visual (written and graphic) identification of the programmes that could impair the physical condition, health, moral, mental, intellectual, emotional and social development of minors.

(2) The programmes referred to in paragraph 1 of this Article shall be clearly identified by a visual symbol throughout the programme, and broadcast at the time and in the way least likely for minors to watch or listen to in normal circumstances.

(3) Minors shall not be carelessly and unreasonably shown in dangerous situations.

(4) Minors in the crisis situations shall not be interviewed (e.g. children who ran away from home, attempted suicide, used by the adults to commit a crime, whose parents are serving a prison sentence, etc.) and their anonymity shall be ensured in the coverage of these situations.

(5) The parts of news programmes that could impair the physical, mental or moral development of minors shall be announced by a warning that disturbing or violent scenes are to follow.

(6) The consummation of tobacco or tobacco products, alcohol and narcotics shall not be portrayed in the programmes targeting primarily minors, except if they are identified as harmful.

(7) All forms of violence or dangerous behaviour easily imitable by minors shall not be portrayed in the programmes targeting primarily minors, except if they are identified as harmful.

(8) When portraying the reconstruction of a crime, violence or other harmful behaviour, electronic media are obliged to display, throughout the programme, a visual warning that it is the reconstruction of an event.

## **Written and acoustic warning and graphical signs**

### **Article 23**

(1) Written and acoustic warning shall immediately precede the identified programme, in a form of telop with the following text: "The following programme is not suitable for minors under the age of 12, 16 or 18," simultaneously read by a presenter.

(2) The graphical sign shall be in the form of a circle with a red number, which shall be clearly visible, displayed in the upper corner of the screen, opposite to the usual place of the media identification sign, throughout the identified programme.

(3) For the purpose of this Rulebook, the following graphical signs shall be used for adequate programmes:

- a) graphical sign 12;
- b) graphical sign 16;
- c) graphical sign 18.

### **Article 23a**

(1) When categorizing content, the following should be taken into consideration:

- a. if they portray: violence and its consequences; sexual violence; nudity; sexual acts; horror scenes; smoking and the abuse of narcotics, alcohol or other harmful substances; dangerous behaviour; discrimination or offensive behaviour;
- b. in which context the content referred to in point a) of this paragraph are portrayed, especially:
  - i. the purpose and nature of content that could harm the physical, health, mental, moral, intellectual, emotional and social development of minors;
  - ii. if certain content is broadcast by a general or specialized electronic media outlet;
  - iii. if it is a fictional or non-fictional content;
  - iv. the degree of realism in portraying potentially harmful content;
  - v. the number, duration, frequency, intensity (the degree of audio, visual or verbal emphasis) and details in the portrayal of content that could

harm the physical, health, moral mental, intellectual, emotional and social development of minors;

- vi. the expected effect of the content on viewers or listeners, especially the environment in which the content that could harm the physical, health, mental, moral, intellectual, emotional and social development of minors is portrayed;
- vii. the attitude taken in the programme towards violence, substance abuse, dangerous behaviour, or discrimination.

(2) The content that could harm the physical, health, mental, moral, intellectual, emotional and social development of minors shall be categorized in line with the criteria referred to in paragraph 1 of this article, following an assessment if each individual criterion and all criteria have been met.

### Article 23b

(1) The graphical sign 12 is displayed for content that is not intended for minors under the age of 12, including the occasional, moderately long, moderately intensive and moderately detailed portrayal of content referred to in article 23a, paragraph 1 of this Rulebook, which are not, given the context, inappropriate for minors aged 12 and older, and have the following characteristics:

- a) occasional portrayal of moderate violence and its consequences, while severe violence and its consequences may be portrayed for a short period of time and without details.
- b) exceptional, short and rare portrayal of the scenes of severe violence and its consequences may be present in the content if it is justified by its educational purpose;
- c) sexual violence is not portrayed, but it may be implied that it happened in the course of the action;
- d) nudity may be portrayed, but not in a sexual context;
- e) sexual acts may be portrayed occasionally in a discreet manner;
- f) portrayal of horror scenes may be moderate, but they may not be frequent and emphasized;
- g) portrayal of smoking and abuse of narcotics, alcohol and other harmful substances shall not be frequent, nor shall the relevance or effects of the abuse be portrayed as entertaining or less important than they are in the real life;
- h) dangerous behaviour shall not be portrayed in detail, nor shall a positive attitude be taken towards such behaviour as a whole;
- i) discriminatory behaviour shall not be portrayed with a positive attitude towards such behaviour, nor shall it be portrayed as if it has been combined with violence;
- j) occasional offensive behaviour is permitted, but it shall not be frequent nor shall it be presented as a model of communication, while particularly offensive behaviour may be present for a short period of time, but not when used as an act of aggression or an insult.

## Article 24

(1) The graphical sign 16 is displayed for content that is not intended for minors under the age of 16, including frequent, extended, intensive and detailed portrayal of content referred to in article 23a paragraph 1 of this Rulebook, which are not, given the context, inappropriate for minors aged 16 and older, and have the following characteristics:

- a) severe violence and its consequences may be portrayed in detail, but the content shall not focus on the scenes in which they are portrayed in detail;
- b) sexual violence may be portrayed in a discreet manner, without focus on the details of such behaviour and the suffering of a victim;
- c) there are no limitations concerning the portrayal of nudity, if it is not portrayed in a sexual context, while the portrayal in that context shall not be detailed;
- d) sexual acts may be portrayed frequently, but without any details, unless portrayed for sexual or health education purposes;
- e) horror scenes may be portrayed frequently and in an intensive manner, but only if they are not a consequence of sadistic or sexual behaviour;
- f) portrayal of smoking and abuse of narcotics, alcohol and other harmful substances may be frequent, but the content as a whole shall not have a positive attitude towards such a behaviour;
- g) dangerous behaviour may be portrayed in detail, but the content shall not focus on the scenes portraying such behaviour in detail, nor shall the programme have a positive attitude towards such behaviour;
- h) discriminatory behaviour may be portrayed even if combined with violence, but the content as a whole shall have a negative attitude towards such a behaviour;
- i) very offensive behaviour may be frequent, but the most acute forms of offensive behaviour may be portrayed only for a short period of time, but never when used as an act of aggression or an insult.

(2) The graphical sign 16 shall be displayed for pseudo-reality content, live programmes or footage of extreme sports that may include severe violence.

(3) The content with the sign 16 shall be broadcast between 10 p.m. and 6 a.m. only.

## Article 25

(1) The graphical sign 18 is displayed for content that is not intended for minors under the age of 18, including very frequent, very long, very intensive and very detailed portrayal of content referred to in article 23a paragraph 1 of this Rulebook, which have the following characteristics:

- a) particular focus on detailed portrayal of severe violence and its terrifying consequences;
- b) portrayal of sexual violence, with a particular focus placed on the details of such a behaviour and suffering of a victim;



- c) detailed portrayal of sexual acts, if the main purpose of the content is not to stimulate sexual impulse;
- d) portrayal of erotic content;
- e) very detailed and very intensive presence of horror scenes;
- f) detailed portrayal of the abuse of narcotics, alcohol and other harmful substances, even if the content as a whole does not have a negative attitude towards such behaviour;
- g) detailed portrayal of dangerous behaviour, even if the content as a whole does not have a negative attitude towards such behaviour;
- h) detailed portrayal of discriminatory behaviour, even if the content as a whole does not have a negative attitude towards such behaviour;
- i) portrayal of the most acute offensive behaviour, even when used as an act of aggression or an insult.

(2) The sign 18 shall be displayed for reality shows, their announcements, and the programmes giving an overview of events taking place in such content.

(3) The content with the sign 18 shall be broadcast between 11 p.m. and 6 a.m. only.

### **Article 26**

For the purpose of protection of public interest, the Council of the Agency for Electronic Media may introduce an obligation for certain programmes or genres, which are not included in this Rulebook as such, to be broadcast within the watershed only.

### **Article 27**

(1) Announcements of programmes subject to the obligation of visual and acoustic identification, as part of self-promotional activities of electronic media, shall not include the descriptions and scenes that could likely impair the physical, mental or moral development of minors.

(2) Announcements of programmes referred to in paragraph 1 of this Article shall include a graphical sign identifying the category those programmes belong to.

## ***f) Rulebook on Audiovisual Commercial Communication***

### **Article 5**

The provision of the audiovisual commercial services is based on the following principles:

- a) Prohibition of violation of human dignity;
- b) Freedom of advertising and sponsorship;
- c) Accuracy, completeness and specificity;
- d) Recognisability of advertisers and sponsors;
- e) Prohibition of abuse of confidence;
- f) Prohibition of discrimination;

- g) Prohibition of violation of morals;
- h) Protection of minors' rights;
- i) Respect and protection of competition.

### **Article 7**

10. Audiovisual commercial communication shall not:

...

- p) portray minors in situations that are vulgar, violent or detrimental to their mental and physical development and life (including scenes showing minors use alcohol, tobacco or other harmful substances).

### **Abuse of confidence**

#### **Article 16**

(1) Audiovisual commercial communications shall not abuse the confidence, dependence or attachment, credulity, lack of experience or knowledge, and superstition of advertisement recipients, especially minors.

(2) Audiovisual commercial communications shall not contain elements that either openly or covertly threaten with, provoke, condone or encourage violence or unjustified fear, or that advertise from the point of view of authority addressing its subordinates, minors, or economically or otherwise dependent persons.

### **Protection of minors**

#### **Article 19**

(1) Audiovisual commercial communications shall not include content that could cause material or non-material damage to minors, particularly by causing fear of aggression, and inadequate moral and social behaviour of minors.

(2) Audiovisual commercial communications targeted at minors shall not contain the scenes of violence, including those featuring animated characters, puppets, etc.

#### **Article 20**

Audiovisual commercial communications shall not directly invite or encourage minors to purchase or persuade their parents or others to purchase the goods or services being advertised.

#### **Article 21**

(1) Audiovisual commercial communications targeted at minors shall not promote a product or service that is not intended for them.

(2) Audiovisual commercial communications targeted at minors shall not promote medicines and medicinal substances, including vitamins, except toothpaste for children.

(3) Audiovisual commercial communications targeted at minors shall not contain messages suggesting that certain physical, intellectual, or other social advantages are obtained by using certain products or services, over other minors who do not use these products and services.

## Article 22

- (1) Audiovisual commercial communications shall not represent minors in a sexual way.
- (2) Audiovisual commercial communications shall not represent men and women as boys or girls with sexual features of adults.

## Article 23

- (1) Audiovisual commercial communications targeted at minors shall not show minors in dangerous situations, such as: climbing unprotected areas; entering unknown facilities; talking to strange people; using matches, lighters, petrol, medicines and electrical household appliances, or in other situations jeopardising their health and lives.
- (2) Prohibition referred to in paragraph 1 of this Article shall not apply to audiovisual commercial communications containing warnings of health and safety hazards for minors, or danger for their integrity.

## Article 24

- (1) Audiovisual commercial communications targeted at minors shall not contain any information undermining the reputation or authority of parents, siblings or other family members.
- (2) Audiovisual commercial communications targeted at minors shall not suggest that they are inferior, or that their parents do not meet their obligations towards them, if they do not have a certain product.
- (3) Prohibition referred to in paragraphs 1 and 2 of this Article shall also apply to the undermining of reputation of institutions at pre-school and school level.

## Article 25

- (1) Audiovisual commercial communications targeted at minors shall not contain information abusing the confidence minors place in other people, especially in their parents, siblings and other family members, pedagogues, teachers, doctors and other people important for the life and education of minors.
- (2) Audiovisual commercial communications shall not directly encourage minors to purchase or rent products or services, by exploiting their inexperience or credulity.

## Article 26

- (1) Audiovisual commercial communications shall not undermine the authority or parents or other pedagogues concerning their health food instructions.
- (2) Audiovisual commercial communications shall not encourage minors to neglect health food or a healthy lifestyle, to be on diets or adopt unbalanced or unhealthy eating habits.
- (3) Audiovisual commercial communications shall not promote breast milk substitutes.

## **Article 27**

Audiovisual commercial communications related to toys and educational products for minors shall not be misleading as to:

- nature, function and size of a toy;
- level of ability/skill necessary to operate a toy;
- description of accessories included or not included in the toy packaging;
- toy's price and if additional products are needed in order to use it;
- minimising the price of products or suggesting that it can be afforded by the budget of every family.

## **Alcoholic beverages**

### **Article 33**

The Commercial audiovisual communications promoting alcoholic beverages shall not be aimed specifically at minors and shall not encourage consumption of such beverages.

### **Article 34**

Advertising and teleshopping promoting alcoholic beverages shall not:

- a) suggest or create an impression that consumption of alcoholic beverages could improve a physical condition or driving skills;
- b) suggest or create the impression that consumption of alcoholic beverages contributes to social or sexual success;
- c) claim, suggest or create the impression that that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- d) encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- e) place emphasis on high alcoholic content as being a positive quality of the beverages.

### **Article 35**

The advertising and teleshopping of alcoholic beverages, including and promotion of a trademark of any other sign, shall be prohibited in the radio and television programmes:

- a) for minors;
- b) dedicated to cars or drivers.

## **Scheduling of advertising and teleshopping**

### **Article 46**

The following shall not be advertised in or adjacent to (at least 15 minutes before and after) the programmes dedicated to minors:

- a) games of chance,
- b) bookmakers;
- c) advertisements with religious content;
- d) lighting devices, inflammable matters and other dangerous products that might jeopardise the safety of children;
- e) slimming products, treatments or establishments, medicines, and other dietary supplements;
- f) films carrying over 18 sign.

### **Split screen advertising, telepromotion and virtual advertising**

#### **Article 53**

(1) Telepromotion shall not be used in children's, religious and news/political and current affairs programmes.

### **Sponsorship**

#### **Article 64**

(1) Programmes for minors, programmes dedicated to automobiles or drivers shall not be sponsored by producers of alcoholic beverages.

(2) Sponsors' logos shall not be displayed during children's, documentary and religious programmes.

## **SELF-REGULATION**

### ***Code of Conduct of Montenegrin Journalists***

#### **Guidelines for Principle 5**

When gathering information in any form, a journalist shall use professionally honest and legally permitted methods.

A departure from this rule is permitted only in cases when these methods are not sufficient, and the information that needs to be obtained is of great public importance.

#### **5.2. Research under special circumstances**

Journalists should conduct their research with due compassion and discretion in the event of tragedies, involving personal grief or shock, and people with a physical or mental condition or ill people, as well as children and minors.

A limited capacity for judgement or particular situation these people are in must not be abused in order to obtain information.

#### **Guidelines for Principle 8**

A journalist is obliged to protect the integrity of minors and members of marginalised and vulnerable groups.

## 8.1. Children's interests

(a) Media are obliged to act in compliance with principles of the United Nations Convention on the Rights of the Child and be particularly careful when researching information affecting the interests of children. Consequently, no child shall be subjected to media interference with their personal and family life, home or personal correspondence or to attacks on their honour and reputation.

(b) Media are obliged to exercise particular consideration when reporting on minors, especially if they are victims of any domestic, peer or any other violence. Publication of photographs and videos of children who are victims of violence, and revealing their identity are not permitted.

(c) Media are obliged to exercise particular consideration when reporting on minors suspected of being involved in illegal activities, observing the principle of presumption of innocence and avoiding sensationalism.

Publication of photographs and videos of children who are suspected of crime, and revealing their identity are not permitted.

(d) Media are not permitted to abuse children in any way subjecting them to humiliation because of any form of distress, such as poverty or unacceptable behaviour and the actions of adults.

(e) Before publishing information obtained from a minor, a journalist needs the permission of their parent/legal guardian.

(f) Publication of photographs and videos of children and minors without the permission of their parents/legal guardians is not permitted.

## Guidelines for Principle 9

When reporting on investigations and court proceedings, a journalist shall respect the presumption of innocence until proven otherwise.

In their reports, a journalist shall not presume the outcome of court proceedings.

## 9.1. Coverage of crime, investigation and court proceedings

(g) When reporting on investigation and criminal proceedings against a minor, and their appearance in court, the media must be very careful and keep in mind the future of these persons. This also applies to the children and minors who are victims of crime.

# NORTH MACEDONIA LEGAL AND INSTITUTIONAL CONTEXT

## 1. National Regulatory Authority establishment, mandate and powers

**T**he National Regulatory Authority is the Agency for Audio and Audiovisual Media Services (AVMU), established by the Law on Audio and Audiovisual Media Services. AVMU competencies are: ensuring transparency of broadcasters; protection and development of pluralism in the audio and audiovisual media services; encouragement and support to the existence of diverse and independent audio and audiovisual media services; undertaking measures in cases of violation of relevant law, by-laws and of licence conditions; ensuring protection of minors; adoption of sub-legislation; protection of citizen's interests in the audio and audiovisual media services; determination of illegal media concentration; awarding, revoking or extending licences for television or radio broadcasting; undertaking measures for temporary termination of transmission and reception of audio and audiovisual media services from third countries; adoption of a list of major events; encouragement of media literacy; performing programme, administrative and expert supervision; maintaining the registries of TV, radio, press and AV media services on demand; conducting research and analysis related to issues concerning the audio and audiovisual media services; measuring of the viewers and listeners of the programme services etc. The decisions adopted in cases of violation of the provisions of law, licence conditions, registration certification, by-laws and other Agency acts are final. These decisions may be subject to administrative dispute before a competent court.

Website: [www.avmu.mk](http://www.avmu.mk)

AVMU is legally obliged to publish all reports from the monitoring and its measures on its website (since 2014). An annual report is also published each year. Besides, analyses of the measures undertaken and repeated violations, as well as analyses of second-instance legal proceedings are regularly published on its website.

## 2. Legislation related to protection of minors

### *a) Law on Audio and Audiovisual Media Services*

#### **Article 2** **Aims of the Law**

The purpose of this Law is to provide, specifically, the following:

- (...)
- Protection of user interests, especially the interests of minors;
- Development of media literacy;
- (...)

## **Article 6**

### **Jurisdiction of the Agency**

(1) In accordance with this law, the Agency shall:

- (...)
- be responsible for ensuring protection of minors;
- (...)

## **Article 50**

### **Protection of minors**

(1) Providers of audiovisual media services must not broadcast programmes which may seriously harm the physical, psychological or moral development of minors, especially programmes containing pornography or gratuitous violence.

(2) Gratuitous violence consists of the spreading of textual, verbal and visual messages, during the time periods available to minors, which glorify physical, verbal or psychological forms of sadism or similar types of violence being an aim in and for itself, and which cannot be justified either by the context of the genre or by the motives of the dramatic action of the broadcasted program.

(3) The prohibitions referred to in paragraph (1) of this Article shall also apply to other programmes which are likely to damage the physical, psychological and moral development of the minors, except in cases when it is provided that their broadcasting or reprises in certain times of the day and/or by applying a certain technical measure, that the minors will not be able to listen to or watch those programmes in their usual way. When such programmes are broadcast or reprised in an unencrypted manner, the provider of audiovisual media service shall be obliged to provide an audible warning prior to their broadcast or enable recognition by means of visual signs during their broadcast.

(4) The Agency shall prescribe the technical measures, the periods of broadcasting, the audible warning, the visual symbols and the conduct of the providers of audiovisual media services in the cases referred to in the paragraphs (1) and (2) of this Article.

(5) The operators of public electronic communication networks may broadcast or rebroadcast program services containing pornography only in encrypted format. The broadcasting or rebroadcasting of child pornography is prohibited.

## **Article 53**

### **Audiovisual commercial communications**

(8) Audiovisual commercial communications regarding beer or wine may not:

- be aimed specifically at minors and especially must not depict minors consuming wine or beer;
- link their consumption to enhanced physical fitness or to driving;

(13) Audiovisual commercial communications may not cause physical or moral harm to minors.



(14) Audiovisual commercial communications directed at or featuring minors may not:

- directly urge minors to purchase or lease a product or service by exploiting their inexperience or gullibility;
- directly encourage minors to seek from their parents or other persons to buy them the advertised products or services;
- take advantage of the special confidence that minors have in their parents, teachers or other persons, and
- depict minors in dangerous situations.

(15) Audiovisual commercial communications that accompany or are part of children's programmes, concerning food and beverages that contain nutrients and substances with nutritious or physiological effects, such as fats, saturated fatty acids, salt/sodium or sugars, the excessive intake of which is not recommended in the overall diet, must not:

- contain incorrect or misleading information about the nutritional value of a product;
- suggest that a certain food or beverage can replace fruits and/or vegetables, and;
- encourage unhealthy eating and drinking habits such as immoderate, excessive or uncontrolled consumption.

## **Article 110**

### **Obligations of radio and TV stations regarding its broadcast programmes and programme services**

When producing and providing the radio and television programmes and programme services referred to in Article 107 of this Law, radio and TV stations shall:

- contribute to the respect and promotion of the fundamental human rights and freedoms, individual privacy, dignity, reputation and honour, tolerance, understanding and respect for differences, the sense of peace, justice, democratic values and institutions, protection of the minors, gender equality, suppression of discrimination and the benefits of the civic society;

## ***b) Law on Child Protection***

### **Article 4**

The application of the provisions of this law is based on the principles of protecting the children's right to life and development, protecting the best interest of the child, ensuring a minimum standard of living for every child under equitable conditions, excluding any form of discrimination, respecting the child's right to freedom and personal safety, the right to hold an opinion, and free expression, association and education, conditions for healthy living, and exercise of other social rights and freedoms of children.

## **Article 5**

(1) The state shall protect the child's right to express his/her own opinion about all issues affecting her/him and shall ensure that the child's opinion receives due attention in accordance with the child's age and maturity.

(2) A child's expression may be direct, or through a representative or appropriate authority, in a manner and according to established procedures and law.

## **Article 8**

Child protection shall be deemed an activity of public interest.

## **Article 11**

(1) Within the meaning of this law, any person under the age of 18 shall be deemed a child, as well as any person with physical or mental developmental impediments under the age of 26.

## **Article 12**

(4) Abuse of children for political or religious organizing or action is prohibited.

### ***c) Law on Criminal Procedure***

#### **MAIN HEARING**

##### **1. Principle of public access to the main hearing**

###### **Article 354**

###### **Exclusion of the public**

At any moment, from the beginning of the session until the end of the main hearing, the panel of judges may exclude the public from any part of the main hearing or the entire main hearing, on the basis of a motion by the parties or the injured party or ex-officio, if such exclusion is necessary to protect a state, military, official or important trade secret, preserve public order, protect the privacy of the defendant, witness or injured party, protect the safety of the witness or the victim and/or to protect the interests of a minor.

### ***d) Law on Food Safety***

###### **Article 30-a**

###### **Nutrition and health claims**

(2) General health claims, as well as claims of reducing disease risk and health claims relating to the growth and development of children or their health, may be displayed for commercial purposes in labelling, presentation, or advertising of products only if duly approved by the Agency.

### ***e) Electoral Code***

##### **2. Media presentation**

###### **Article 75**

(3) Programmes intended for minors may not be used for electoral media presentation.

## Article 76

3. Participation of minors in paid political advertising is prohibited.
4. Broadcasters may not broadcast paid political advertising during news, information programmes and specials, children's and educational programmes, or broadcasts of religious, sports, cultural, entertainment, or other events.

## *f) Law on Consumer Protection*

### PART III

### ADVERTISING OF PRODUCTS AND SERVICES

#### Prohibition of misleading advertising

##### Article 27

Misleading advertising of products or services is prohibited. Comparative advertising is permitted if the conditions stipulated in this or other laws are met.

Advertising that offends human dignity, advertising that causes or may cause bodily, psychological, or other harm in children, or which spreads messages or parts of messages exploiting, abusing or potentially abusing children's gullibility or lack of experience, are prohibited.

#### Safe product

##### Article 33

A safe product is any product which in normal use, or in reasonably predictable ways of use, including the shelf life, represents no risk or minimal risk and proportional to the benefit of using the product, and fulfils requirements that ensure a high degree of protection of human safety and health, taking into account:

- the properties of the product including its composition, packaging, instructions for assembly, use, or maintenance;
- the effect on other products in cases where it can be logically expected that the product would be used together with other products;
- the presentation of the product, its labels, instructions for use or disposal, or any other information or label about the product, and
- categories of consumers, especially children or the elderly, that are exposed to risk while using the product.

#### Dangerous product

##### Article 34

Any product which fails to meet the requirements for safe products stipulated in articles 32 and 33 of this law shall be deemed a dangerous product.

Dangerous products, within the meaning of paragraph 1 of this article, also include products that have a shape, aroma, color, appearance, packaging, label, size, or bulk that makes it possible for consumers, especially children, to confuse them with food products and put them in their mouths, suck or swallow them, which could be dangerous and cause choking, poisoning, perforation, obstruction of the digestive tract etc.

## II. CHILDREN'S TOYS SAFETY

### Marketing of children's toys

#### Article 37

Any product or material manufactured and intended for play by children under the age of 14 is a children's toy.

#### Article 38

"Placement on the market" also includes sale or free distribution of the toy.

#### Article 39

A children's toy may not be placed on the market if it fails to meet basic safety requirements in terms of mechanical, physical, chemical, electrical, or sanitary properties.

Toys may not contain radioactive elements or substances. The properties indicated in paragraph 1 of this Article shall be prescribed by the Minister of Economy in concordance with the Minister of Health.

## SECONDARY LEGISLATION ENACTED BY THE AGENCY FOR AUDIO AND AUDIOVISUAL MEDIA SERVICES

### *a) Rulebook on Protection of Minors*

#### Article 2

##### Definitions

- **Minors** are persons below the age of 18 years;
- **Programmes that can adversely affect minors** are audiovisual units or their components that include descriptions, scenes or presentations of violence, eroticism, sexual conduct prohibited by law, indecent (vulgar) language, suggestible forms of behaviour which are easy to imitate and are dangerous to health and safety, behaviour offensive to human dignity, etc.;
- **Violence** within the meaning of this Rulebook is any obvious display of any form of realistic threat of physical force or imminent use of force, with or without weapons, force that is intended to harm or endanger an individual or a group of living beings. It can be a display of committed violence or intention to commit violence, regardless of the potential of such violence to cause injury. This definition of violence includes any display of consequences of physical harm to any living being (or a group of beings), even if the act of violence is not shown;
- **Time periods** are specific programming time slots in a period of 24 hours, within which broadcasting of programmes in specific categories is permitted. For each category of programmes there is a specific time period of broadcasting;
- **Programming context** in which content which is harmful to minors is broadcast, shall refer (but shall not be limited) to: the genre of the programme; the format of the audiovisual programme service on which the programme is

broadcast; the time period of the programme and the sequence of programmes in the schedule (before and after the time of broadcast of the particular programme) of television programme services; schedule of programmes in the catalogue under the category of providers of on-demand audiovisual media services; the extent of harm that can be caused by a certain programme content; the expected number and composition of the potential audience and the likely expectations of the audience; the level of detail given on the content of which the potential audience is informed; additional effects that the content may cause among the viewers.

## II. CONTENT THAT MAY ADVERSELY AFFECT MINORS

### Article 3 Violence

Providers of audiovisual media services are required to ensure that frequent and continuous displays of violence can have a cumulative negative effect on minors, which can be manifested by reducing the level of sensitivity to violence and developing a view that violence can be an acceptable way to solve problems.

Fear caused by descriptions, scenes and/or images of violence can greatly disturb minors. Providers of audiovisual media services must always responsibly consider the balance between– the right of the public to be informed in a timely and accurate manner, and the need for protection of minors.

Scenes with verbal or physical violence or other dangerous behaviour that can be easily imitated by minors and which may be harmful or dangerous for them, may not be broadcast in programmes that are primarily intended for minors.

### Article 4 Use of drugs, psychotropic substances, cigarettes and alcohol

The use of drugs and psychotropic substances, cigarettes and alcohol may not be displayed in audiovisual programmes that are primarily intended for minors.

Audiovisual programmes that are not intended for minors may not support, encourage, instigate or exalt the use of drugs and psychotropic substances, tobacco and alcohol, unless it is justified by the context of the genre or by the motives of the dramatic action in the feature film programme.

### Article 5 Erotica

Providers of audiovisual media services are required to take into account that, although it is permissible to display erotic scenes in the programmes up to a certain limit, such content can still cause harm to minors. Therefore, the categorisation of programmes containing erotic scenes must be made in accordance with the descriptions of the categories of programmes defined in the Rulebook.

When stories in news and information programmes include descriptions, scenes and/or images containing erotica, the assessment on the appropriateness of the period in which they are presented on the television programme services should be based on the degree of explicitness of the details shown.

## **Article 6**

### **Sexual behaviour prohibited by law**

Media treatment of topics about paedophilia, sexual abuse of minors and other forms of legally prohibited sexual behaviour can be justified only because of the public's right to be informed and for purposes of their wider social problematisation of such issues.

Media treatment of topics related to paedophilia and other forms of legally prohibited sexual conduct in the news, information, documentary or other programmes must not include any suggestion or encourage a socially undesirable position.

Providers of audiovisual media services shall be required, in setting the categorisation of the programmes, to bear in mind the fact that the descriptions, scenes and/or images of rape and consequences of rape can have a particularly harmful effect on minors.

The planning of the terms by television broadcasters to broadcast scripted programmes which treat sexual abuse of minors, must be based on the fact that minors may be disturbed as a result of the expected identification with the presented victim of the violent act.

When stories in the news and information programmes include descriptions, images and/or images that contain sexual conduct prohibited by law, the assessment of the adequacy of the period of their presentation should be based on the degree of explicitness of the details shown.

## **Article 7**

### **Indecent expressions and gestures**

The use of indecent expressions and gestures is acceptable in certain types of entertainment programmes, in the feature film programme as an aesthetic element, or in educational and documentary programmes that deal with the artistic application of indecent (vulgar) language and its socially motivated aspects.

In programmes that are designed for the whole family and broadcast on television programme services in the period until 20:00, excessive use of indecent expressions and gestures is not permitted.

## **Article 8**

### **Suggestible forms of behaviour hazardous to health and safety**

For the purposes of protection of minors, the presentation of programmes containing descriptions, images and/or images with behaviour hazardous to health and safety, which can be easily imitated, must always be justified in the appropriate context.

## **Article 9**

### **Programmes with clairvoyants**

Contact interactive programmes with clairvoyants (tarot, astrology, fortune tellers and related methods) that immediately suggest changes in personal behaviour must be marked as programmes that are not recommended for persons under the age of 18 years, that is – they may be broadcast only between 00:00 and 05:00 am.

The limitation on the broadcast period does not apply to broadcasting of short, depersonalised segments with daily horoscopes, classified as part of entertainment programmes.

### **Article 10** **Hypnosis techniques**

When displaying audiovisual material containing hypnosis techniques, providers of audiovisual media services must act with utmost responsibility to avoid causing adverse effects on minors, i.e. the camera may not present the person that performs hypnosis and their entire verbal procedure.

The television programme services are required before and after advertising breaks in such programmes, on the screen, and providers of on-demand audiovisual media services at the appropriate place in the catalogue, to publish a warning that the programme contains hypnosis techniques.

## **III. CATEGORISATION OF PROGRAMMES AND TIME PERIODS**

### **Article 13** **Programmes subject to categorisation**

Providers of audiovisual media services are required to categorise the overall programme broadcast on television program services, or offered in the catalogue of on-demand audiovisual media services, with the exception of news and information programmes.

### **Article 14** **Criteria for categorisation of programmes**

The editor, based on their ethical awareness and editorial responsibility, should very carefully assess whether in a particular programme context it is necessary to broadcast content potentially harmful to minors.

In reviewing the content and categorisation of programmes, providers of audiovisual media services should take into account the following criteria:

- Number (frequency) and the nature of the descriptions, scenes and/or images of violence, eroticism, sexual conduct prohibited by law, indecent (vulgar) language, suggestible social behaviour easy to imitate that are dangerous to health and safety, behaviour offensive to human dignity, etc.;
- the graphic nature and detailed depiction which create obvious brutality and/vulgarism of descriptions, scenes and/or images;
- Assessing whether the descriptions, scenes and/or images of violence, eroticism, sexual conduct prohibited by law, indecent (vulgar) language, suggestible social behaviour easy to imitate that are dangerous to health and safety, and behaviour offensive to human dignity, represent complementary elements in the dramatic plot, or in the context of an educational, documentary and/or information programme;

- Whether violence is suggested as a means of resolving conflicts;
- The frequency and duration of close-ups and/or detailed verbal, graphic and/or text descriptions, images and/or images of brutality and vulgarity;
- Accompanying aesthetic effects: music, masks, makeup and other graphic, stage and/or costume elements that can cause anxiety or reinforce a sense of fear and humiliation of human dignity;
- The psychology behind the characters, and the difficulty of the controversial conclusions from the extroverted and introverted aspects of the characters and their motives for violent behaviour, which can affect minors suggestively;
- Descriptions, scenes and/or images of minors brought into brutal and/or vulgar situations;
- Director's and screenwriter's treatment of violence and eroticism: glorification or neutralisation, designed by descriptions and development of whole scenes and/or images of brutality and vulgarity;
- Director's and screenwriter's approach to controversial topics: inciting racial, religious, ethnic, gender or any other type of intolerance, drug addiction, suicide, incest, pedophilia, rape, blood offenses, and similar types of threats and/or the effects of psychophysical torture.

## **Article 15**

### **Programme categories**

Programmes subject to categorisation shall be classified under the following five categories:

- First category – programmes intended for all types of audience;
- Second category – programmes that are not recommended for children under 8 years of age, viewing recommended under the supervision of a parent or guardian;
- Third category – programmes that are not recommended for children under 12 years of age, requiring supervision of a parent or guardian for viewing;
- Fourth category – programmes that are not recommended for children under 16 years of age, requiring supervision of a parent or guardian for viewing;
- Fifth category – programmes that are not suitable for audiences under 18 years of age.

## **Article 16**

### **Time periods for programme categories**

Depending on the expected composition of the audience, programme categories may be broadcast in the following time periods:



- The first and second programme category may be broadcast throughout the day and night;
- The third category may be broadcast between 20:00 and 05:00 am;
- The fourth category may be broadcast between 22:00 and 05:00 am;
- The fifth category may be broadcast between 00:00 and 05:00 am.

## Article 17

### Description of programme categories

The categories of audiovisual programmes defined in Article 15 of this Rulebook shall be determined according to the following descriptions:

- (1) **First category – programmes designed for the entire audience.** Programmes that can be broadcast throughout the day and night and can be viewed by the entire audience, including children of preschool age. The use of offensive (vulgar) language should be reduced to the lowest possible level. Displaying the naked human body is permitted only in neutral natural appearance, outside of any erotic context. It is not recommended to display real weapons. It is recommended that descriptions and scenes and/or images of violent acts are limited exclusively to mild threats without any expression of verbal and/or psychophysical cruelty in human relations. Displaying of drug addiction, alcoholism and similar deviant behaviour is prohibited. The scenes of fear should be designed in compliance with the age of the youngest viewers.
- (2) **Second category – programmes that are not recommended for children under 8 years of age, recommended to be viewed under the supervision of a parent or guardian.** These can be broadcast over the whole day and night, with a recommendation to be viewed under the supervision of a parent or guardian. They can have a range of more serious topics: deviant behaviour, family violence, racism and the like, but programmes may not encourage, or include any affirmation of deviant behaviour or behaviour offensive to human dignity. Overemphasised use of offensive (vulgar) language is permitted/prohibited. Neutral, natural appearance of the naked human body is permitted, but without any vulgar sexual context. Descriptions, scenes and/or images of erotica must be extremely rare and very mild, discrete and without vulgar allusions. Showing moderate violence, but without details of cruelty, justified in the plot of the script, without emphasising the presence of real weapons or dangerous techniques for interpersonal fights, is permitted.
- (3) **Third category – programmes that are not recommended for children under 12 years of age, which require supervision of a parent or guardian for viewing.** Programmes that include systematic and frequent descriptions, images and/or images of psychophysical violence, which can cause distress to minors. Treatment of serious topics is acceptable, but should be adequate for the stipulated age of the audience. It is permissible to use obscene language, vulgarity and brutality, but must be

kept at a reasonable level and be justified by the necessary function in the dramatic or the information and documentary context of the programme. Descriptions, scenes and/or images of violence and eroticism, and possible mutual relationship between these two factors in the development of the narrative, should not emphasise physical injuries and/or psychophysical consequences of the injuries, or focus on obscene physical details. No exaggerated importance should be given to weapons and techniques for interpersonal fights which are easy to imitate, with dangerous potential to have a suggestive influence on psychologically less stable and emotionally vulnerable segments of the audience. Displaying drug addiction is permitted, but without detailed elaboration of the phases of the act of characterisation of characters, and complementarily in the whole of the various types of feature, educational, informative and/or documentary programme. Announcements of such programmes must not be composed of descriptions, scenes and/or images that can disturb minors.

- (4) **Fourth category – programmes that are not recommended for children under 16 years of age, which require supervision of a parent or guardian for viewing.** Programmes that involves systematic and frequent descriptions, images and/or images of psychophysical violence, which can upset minors. There are no restrictions on the topics. Frequent use of offensive speech is permitted, but the excessive use of extremely vulgar expressions is hardly acceptable. Displaying erotica and sexual intercourse is permitted, but without explicit, pornographic details. It is necessary to have a carefully conceived context of verbal and gestural expressions that have strong sexual allusion and may offend human dignity. Displaying drug addiction is permitted only without detailed elaboration of the phases of the act of (ab)use of drugs, in a balanced manner with indication of the consequences, and in the purpose of characterisation of the characters, complementarily in the unit of the various types of feature, educational, informative and/or documentary program. Descriptions, images and/or scenes of violence and consequences of violence are acceptable, but not images of sadism, or any other expression of inhumanity and gratuitous cruelty over people and animals. Announcements of such programmes may not include descriptions, images and/or images that can upset minors.
- (5) **Fifth category – programmes that are not suitable for audiences under 18 years of age.** Descriptions, scenes and/or images of violence and consequences of violence, as well as displays of erotic relations are tolerated. The autonomous right and self-awareness of the adult person to decide which type and category of programme they want to follow is respected. Broadcasting pornography and sadism is prohibited and in no case should be associated with this category of programmes. In this category of programmes there are no restrictions on the topics, and the only limitations are related to the manner of their treatment.

## **Article 18**

### **Scheduling of programmes that potentially could harm minors in the programming scheme**

In the planning of broadcasting of programmes that could adversely affect the development of minors, television broadcasters are obliged to take into account the following criteria:

- the nature of the content that can have a harmful effect on minors;
- media function and genre of the specific programme;
- the number and age of minors who are likely to follow the programme, taking into account weekdays, weekends and holidays;
- the likely expectations of the audience in terms of the programme content in a specific time of day or a specific day.

## **IV. AUDIBLE WARNING AND VISUAL SIGNS, WARNING SIGNALING**

### **Article 19**

#### **Programmes in which warning signaling is applied**

Warning signs must be applied before and during the broadcasting of programmes of television programme services, and on a convenient place next to the programmes available in the catalogue of on-demand audiovisual media services, as follows:

- in all types of feature programmes, and
- in those types of programmes with an informative, educational and entertaining function, that either as a whole or in parts, can adversely affect minors.

### **Article 20**

#### **Method of application of the warning signaling**

Before the start of television programmes referred to in Article 19 of this Rulebook, a warning signal corresponding to the programme category which is a combination of a visual sign, text, verbal and acoustic warning, lasting at least 10 seconds, and occupying at least 1/4 of the visible part of the screen, shall be displayed.











During the television programmes covered by Article 19 of this Rulebook, only the visual sign of the warning signal is continuously displayed, with dimensions of 1/32 in the corner of the visible part of the screen. Exceptions are visual signs for television programmes with hypnotic techniques and flashing light, which are applied on the screen after every advertising break.

At an appropriate place next to the programmes covered by Article 19 of the Rulebook, available in the catalogue of on-demand audiovisual media services, only the visual sign corresponding to the programme category shall be applied.

## Article 21

### Appearance and content of the warning signs

Warning signs that are applied before, next to or during the programmes by the providers of audiovisual media services, shall have the following appearance:

Visual signs	Warnings
	 <p><b>цела публика</b></p> <p>Programmes in the first category, intended for all audiences.</p>
	 <p><b>родителски надзор</b></p> <p>Programmes in the second category, not recommended for children under 8. Supervision by parent or guardian required.</p>
	 <p>Programmes in the third category, not recommended for children under 12. Supervision by parent or guardian required.</p>
	 <p>Programmes in the fourth category, not recommended for children under 16. Supervision by parent or guardian required.</p>
	 <p>Programmes in the fifth category, inappropriate for audiences younger than 18 years.</p>
Programme with hypnosis techniques	<b>Warning:</b> This programme contains hypnosis techniques
Programme with flashing lights	<b>Warning:</b> This programme contains flashing images which may harm viewers with photosensitive epilepsy

## **Article 22**

### **Programme announcements**

Announcements (promotional announcements) for programmes of broadcasters should not contain descriptions, images and/or images that can cause damage to minors.

The announcements referred to in paragraph 1 of this Article shall be marked with the visual sign that signals the program category that is announced.

The announcements of programmes of the fifth category may not be broadcast before 22:00 pm.

## **V. CONTENT IN NEWS AND INFORMATIVE PROGRAMMES**

### **Article 23**

#### **Editorial assessment of the necessity of the details**

When news and information programmes include descriptions, images and/or images that may adversely affect minors, the justification of their display must be based on responsible editorial assessment for the necessity of details in such material.

The presentation of stories on the television programme services that include descriptions, images and/or images of violence, audiovisual material that may offend or humiliate human dignity, other stories whose content can seriously endanger the physical, psychological and/or moral development of minors must be broadcast in time periods of the programme schedule when it can be expected that minors would not be viewing the programme.

Professional responsibility of a journalist means that victims of violence should also be treated with maximum respect, and their bodies should not be displayed in close-up shots to protect human dignity, except in exceptional cases where it is unavoidable due to the integrity of the informational material.

In presenting descriptions, images and/or images that are used as court evidence, media responsibility requires the editor of the programme to carefully assess whether it is necessary the information capacity of such material to be included in of the presented programme.

### **Article 24**

#### **Warning comment**

If stories or components of the stories in the news and information programmes include content that might upset minors, television broadcasters are obliged to announce them by a warning comment of the anchor/host.

This approach does not imply a restriction of the topics and events that should be reported, but the broadcast must be followed by the journalist's and/or expert commentary that will provide objectivity of the information perspective.

### **Article 25**

#### **Minor perpetrators or victims of crime**

If the news reports on minors who are perpetrators, witnesses or victims of sexual violence or other criminal acts, providers of audiovisual media services should be

especially careful not to publish descriptions, details, pictures or any information that can directly or indirectly reveal their identity.

## **VI. SPECIAL REQUIREMENTS FOR ON-DEMAND AUDIOVISUAL MEDIA SERVICES**

### **Article 26**

#### **Technical measures for protection of minors**

Providers of on-demand audiovisual media services are required to provide technical measures to disable access by minors to content that may be harmful to them.

The technical measures referred to in paragraph 1 of this Article may include:

- codes for personal identification (PIN codes) whereby the provider of on-demand audiovisual media services can check the age of the user before enabling them access to coded content categorised and labelled in accordance with the provisions of this Rulebook;
- filtering of the content categorised by the provider of on-demand audiovisual media services and labelled according to the provisions of this Rulebook;
- application of independent filtering systems that analyse the programme, recognise and shut off harmful content based on the categories defined by the parent/guardian;
- use of other software that enables parents/guardians to block access of minors to content that could harm them.

### **Article 27**

#### **Presentation and labelling of programmes that can harm minors**

Providers of on-demand audiovisual media services are required to label content collected from television programming services in North Macedonia and other content available in the on-demand catalogue, which can adversely affect the development of minors, with warning signs in every listing in the programme catalogue, and the announcements of programmes.

Information on the fifth category of programmes can be presented only as part of a service that is available for payment, whether it is a subscription service or pay-per-view service.

### ***b) Rulebook on New Advertising Techniques***

#### **Article 8**

#### **Restrictions on the use of new advertising techniques**

Use of new advertising techniques is not permitted in the following types of programmes and other segments, as defined by the Guidelines on the Method of Classifying the Types of Audiovisual and Audio Programmes:

- Children's programmes, regardless of their duration;
- Informative programmes: news and newscasts, and any kind of informative programme on religious/theological topics;

- Educational programmes: documentaries on religious topics;
- Other segments: religious programmes, religious services and sermons.

## **Article 12**

### **Prohibitions on advertising**

The new advertising techniques must not be used for promoting:

- cigarettes, tobacco products or their manufacturers;
- weapons, firearms, pyrotechnical items or the firms that sell these;
- drugs and prescription-only medicinal products and medical treatments;
- alcohol and alcoholic beverages, except wine and beer.

New techniques for advertising wine and beer must not:

- be aimed specifically at minors and must not, in particular, depict minors consuming wine or beer;
- link their consumption to enhanced physical fitness or to driving;
- create the impression that their consumption contributes towards social or sexual success;
- claim that wine and beer have therapeutic qualities, or that they are stimulants, sedatives, or means to resolving personal conflicts;
- encourage immoderate consumption of alcohol or represent abstinence or moderation in a negative light, or
- emphasize high alcoholic content as a positive quality of wine or beer.

The new techniques for advertising medicinal products and medical treatments available without medical prescription must not stimulate unreasonable use of the same, but must present these objectively, without exaggerating their attributes, in accordance with the instructions for their use.

## **Article 13**

### **New advertising techniques and minors**

The use of new advertising techniques must not cause physical or moral harm to minors.

The new advertising techniques must not:

- directly urge minors to purchase or lease a product or service by exploiting their inexperience or gullibility;
- directly encourage minors to seek from their parents or other persons to buy them the advertised products or services;
- take advantage of the special confidence that minors have in their parents, teachers or other persons, and
- depict minors in dangerous situations.

The new advertising techniques for commercial communications concerning food and beverages that contain nutrients and substances with nutritious or physiolog-

ical effects, such as fats, saturated fatty acids, salt/sodium or sugars, the excessive intake of which is not recommended in the overall diet, must not:

- contain incorrect or misleading information about the nutritional value of a product;
- suggest that a certain food or beverage can replace fruits and/or vegetables, and
- encourage unhealthy eating and drinking habits such as immoderate, excessive or uncontrolled consumption.

## **Article 15**

### **Interactive advertising**

When an icon appears on screen through which the viewer gains access to interactive commercial services, it should flash and be inserted within an advertising spot (usually the last one in an advertising slot) or in the electronic program guide, where it should be clearly marked by the word ‘advertisement’.

When the viewers click on the icon, it must not immediately lead them to the commercial content, but an intermediate screen should open first, warning viewers that, after a second click, they are about to leave the television programme service and enter a commercial interactive environment.

Interactive advertising of products/services unsuitable for minors (for example, because they might cause distress or because they refer explicitly to sexual matters) must not be directly accessible from advertisements that are aired into or are adjacent to programmes directed at minors or programmes likely to attract the attention of minors.

There must be a period of at least 15 minutes between two insertions of Interactive advertising.

### *c) Guidelines for Implementing the Rules for Product Placement*

## **II. PRODUCT PLACEMENT RULES**

### **Wine and beer placement rules**

19. placement of wine and beer must not:

- be aimed specifically at minors or, in particular, depict minors consuming wine or beer;

### **Programmes in which product or prop placement is prohibited**

30. Product placement is prohibited in the following types of programming, as established in the Guidelines on the Method of Classification of the Types of Audio-visual and Audio Programmes:

- The following types of informative programmes: the news or TV journals; current-affairs programmes; current-affairs programmes with a documentary approach; current-affairs talk shows; live or recorded broadcasts



of official sessions of the state institutions/authorities; live or recorded broadcasts of social and political events; informative magazines; infotainment programmes; info-service; informative programmes in the field of art, culture and humanities; children's programmes of informative character, and other informative programmes.

- The following types of educational programmes: educational programmes; documentaries; educational programmes in the field of art, culture and humanities; documentaries about religious topics; children's programmes of educational character, and other educational programmes.
- The following types of entertainment programmes: entertainment and informative programmes, and children's entertainment programmes.

## **SELF-REGULATION ACTS**

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### *Code of the Journalists*

#### **Media Ethics Council / Journalists Association**

9. A journalist may not interview or photograph children under the age of 16 without consent of their parents or guardians, unless such interviewing or photographing is compliant with the rights of the child.

The same applies to persons with special needs who are not able to make properly informed decisions or judgments.

## SERBIA LEGAL AND INSTITUTIONAL CONTEXT

### 1. National Regulatory Authority establishment, mandate and powers

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**T**he National Regulatory Authority is the Regulatory authority for electronic media (REM), established by the Law on Electronic Media. REM competencies are: defining the proposal of a strategy for the development of the media service of radio and audiovisual media services, and forward it to the Government for approval; adoption of the Statute; issuance of general bylaws prescribed by the Act; issuance of licenses for the provision of media service of television and radio linear media service; detailing the procedure, requirements and criteria for licensing in accordance with the provisions of the Law and prescription of the form and content of the licence; issuance of licences for the provision of media services upon request and specification of the procedure for issuing the licence; maintenance of the Register of media services and keep record of on-demand audiovisual media service providers; control of the operation of media service providers and insurance of consistent application of the provisions of the Law; imposition of measures on media service providers in accordance with the Law; prescription of rules that are binding for media service providers, especially those that ensure implementation of the strategy referred to at the outset; deciding on charges in connection with the programming activities of media service providers; specification of logical channel numbering; providing its opinion to the competent state authorities in connection with the accession to international conventions related to the field of providing broadcasting services; initiation of the preparation and amendment of laws, regulations and general acts for the effective performance of tasks within their scope of work; determination of specific rules relating to programme content in relation to the protection of human dignity and other personal rights, protecting the rights of minors, prohibition of hate speech etc.; performing analysis of the relevant media market, in cooperation with the body responsible for the protection of competition in accordance with the methodology prescribed by act passed by the Regulator; conducting research of the needs of the users of media services and protect their interests; cooperation and coordination of work with the body in charge of electronic communications and the body responsible for the protection of competition, as well as other Regulatory bodies in accordance with the Law; encouragement of preservation and protection of Serbian culture and language as well as the culture and languages of national minorities; promotion of improved access to media services for persons with disabilities; encouragement of development of creativity in the field of radio, television and other audiovisual media services; promotion of the development of professionalism and a high level of education of employees in the electronic media in the Republic of Serbia, as well as improvement of the editorial independence and autonomy of providers of media services etc. Sanctions at the disposal of REM include: notification, warning, temporary ban on provision of programme content, i.e. suspension of licence due to breaches of programme standards and licence obligations. For expertise and administrative jobs within REM there are REM expert departments, while the bodies of the Agency include the Council and the President of the Council.

Administrative dispute procedures can be initiated before the Administrative Court against any final decision of the REM Council adopted in cases of licence breach.

Website: [www.rem.rs](http://www.rem.rs).

All decisions of REM related to applications procedures or ex officio procedures are published on the website.

REM annual reports contain key data about the structure of the measures issued against the AVMS providers.

## **2. Legislation related to protection of minors**

### ***a) Law on Electronic Media***

#### **Article 22, paragraph 1, point 15 (Scope of Work of the Regulator)**

The Regulator shall:

- 15) determine specific rules for programme content in relation to the protection of human dignity and other personal rights, protecting the rights of minors, prohibition of hate speech etc.

#### **Article 46, paragraph 4 (Freedom of Reception and Retransmission)**

The Regulator shall temporarily restrict the freedom of reception and retransmission of on-demand audiovisual media services referred to in paragraph 1 of this Article in order to preserve public order, and – in particular – to prevent the enforcement, investigation, detection, and prosecution of criminal offenders, to protect minors, to prevent incitement to hatred based on race, gender, religion or nationality, and to prevent violations of human dignity, for the purpose of protection of public health, for the purposes of public safety, national security, and national defence, for the purpose of consumer protection – including investors – and in cases of serious violations or threatened violations of these interests – in proportion to the interests in question in a given case.

#### **Article 50, paragraph 3 (Obligation to Respect Human Rights)**

Content that could harm the physical, mental or moral development of children must be clearly labelled and not broadcast at a time when it can reasonably be expected that minors watch television given the usual schedule of their activities, except in extraordinary circumstances as in protected services with conditional access in the manner prescribed by this Law.

#### **Article 61, paragraph 1 (On-demand Media Services and the Protection of Minors)**

On-demand media services which may harm the physical, mental or moral development of children and youth, are made accessible in a way that ensures that minors will not normally hear or see them (such as protected service with conditional access).

## **Article 68** **(Protection of minors)**

It is prohibited to show pornography, scenes of brutal violence, and other programme content that can seriously harm the physical, mental or moral development of minors.

The Regulator shall ensure that programmes that can harm the physical, mental or moral development of minors are not available via radio media service or television broadcasting, except when the time of broadcast or technical measures ensure that minors, as a rule, are not able to see or hear them.

The Regulator shall encourage media service providers to organise a permanent internal control of the content for the protection of minors.

The Regulator shall introduce media service providers to the content that is found to be inconsistent with the rules on the protection of minors.

The Regulator, at the request of the media service provider, shall give its opinion on the conformity of programme content with the rules on the protection of minors, and the conditions that make that content available (time of broadcast, the manner of announcement etc.).

Programme content unsuitable for minors under the age of 16 must not be broadcast before 22.00 hours or after 06.00 hours, and those unsuitable for minors under the age of 18, shall not be broadcast before 23.00 hours or after 06.00 hours.

Programme content unsuitable for minors under the age of 12 years must not be broadcast within children's programmes.

The content referred to in paragraph 6 and 7 of this Article must not be advertised outside the time when the broadcast of such content is permitted.

Media service providers are required to report complaints about non-compliance with the rules on the protection of minors to the Regulator.

Media service providers are required to clearly indicate the programmes that can endanger minors or are unsuitable for them, and to warn their guardians.

For the participation of minors in an audiovisual programme the consent of a parent, guardian or adoptive parent is required, which does not exclude the duty of broadcasters to pay special attention to the minor's participation in the programme and does not exclude its responsibility for published content.

### ***b) Law on Advertising***

#### **Article 10, paragraph 1, point 4** **(Prohibition of Encouraging Threat to Health and Safety)**

Advertisement must not encourage behaviour which threatens the health or safety of the recipient of advertising message, and in particular:

- (...) 4) showing minors in connection with sexual activity, as well as showing men and women as boys or girls with the sexual characteristics of adults;

## **Article 21**

### **(Special Rules for the Protection of Children and Minors; Protection of Children and Minors against Inappropriate Advertising)**

Advertising message must not:

- 1) contain a scene showing a child or minor in a perilous situation;
- 2) directly invite children or minors to purchase goods or services or invite them to demand these from their parents;
- 3) encourage children or minors to engage in behaviour which can cause them harm;
- 4) directly encourage children or minors to purchase or rent goods or services, by abusing their lack of experience and naivety;
- 5) abuse the special trust that children and minors have in their parents, teachers or other persons.

Perilous situations referred to in paragraph 1 item 1 of this Article shall particularly include climbing unsecured structures, entry into unfamiliar premises, conversation with strangers and the like or a child who, without the presence of his parents, holds or is in the proximity of hazardous substances or equipment, such as matches, lighters, gasoline, medicines, electric devices in the household and the like, unless the advertising message directly promotes child safety and protection of their integrity.

During children's shows, or shows intended for minors, only advertising messages and messages in TV sale that are appropriate for children and minors can be broadcast.

For the purpose of paragraph 3 of this Article, during and at a minimum ten minutes before or after broadcasting a children's show, or show intended for minors, it is particularly not permitted to broadcast advertising messages and messages in TV sale which recommend:

- 1) alcoholic beverages;
- 2) games of chance;
- 3) ignition devices, inflammable substances and other hazardous means that might lead child or minor to a perilous situation;
- 4) weight loss products, treatment procedures, institutions which provide such services, medicines, medical devices and dietary supplements.

## **Article 22**

### **(Advertising Messaging Intended for Children and Adults)**

Advertising messaging intended for children, for the purpose of this Law, means advertising messaging which is either directly or indirectly addressed to children.

Advertising messaging intended for minors for the purpose of this Law, means advertising messaging which is either directly or indirectly addressed to minors.

## **Article 23.**

### **(Taking Advantage of Lack of Experience, Lack of Knowledge and Naivety)**

Advertising messaging intended for minors must not take advantage of their lack of knowledge or lack of experience, or their naivety.

Advertising messaging intended for children, besides the conditions referred to in paragraph 1 of this Article, must not make it impossible nor make it difficult to tell a difference between reality and imagination.

Advertising messaging intended for children, or minors, must not contain inaccurate data on the advertised goods or service, particularly in terms of actual size, value, nature, durability, characteristics, speed, colour and the like.

If the advertising messaging shows the result of drawing, building, assembly, modelling and the like, capability for the achievement of this result must be commensurate with the average age of the child or minor who the advertising messaging is intended for.

In the case referred to in paragraph 4 of this Article, the age of the children or minors who the advertising messaging is intended for must be specified. Advertising messaging intended for children or minors must not, besides data on the price, contain judgment of the price, and particularly not the words “only”, “tiny”, “cheap” etc.

Provisions of this Law shall apply *mutatis mutandis* to television and radio programmes and media services upon request which are specialised for programme content intended for children or minors.

A ‘child’, for the purpose of this Law, is a person who has not turned 12 years of age. A ‘minor’, for the purpose of this Law, is the person who has turned 12, but has not turned 18 years of age.

Advertising messaging addressing children or minors must not, together with goods and services which are not intended for them, recommend goods or services which are not intended for them.

#### **Article 24 (Protection of Health and Development)**

It is prohibited to advertise milk, other food and drinks for new-borns up to six months old, as well as utensils for their use.

Advertising which encourages or incites behaviour that jeopardises the health, physical and mental development of children and minors is prohibited.

#### **Article 25 (Protection of Integrity)**

Advertising messaging intended for minors must not contain scenes showing violence, including scenes showing violence between animated characters, dummies and the like.

Advertising messaging intended for minors must not take advantage of their trust in certain persons, particularly in their parents, teachers, doctors and the like, by undermining their authority and position.

Advertising messaging intended for minors must not suggest that the use of goods or services will give them physical, intellectual or other social advantages over their peers, or that the non-use of goods or service will have the opposite effect.

Provisions of this Article shall apply *mutatis mutandis* to advertising intended for children.

**Article 34. paragraph 6  
(Broadcasting TV Advertisements and TV Sale without  
Interrupting the Show)**

It is prohibited to broadcast TV advertisements or TV sale in the manner referred to in paragraph 1 of this Article during news, shows intended exclusively for children or minors, religious shows and programmes on current social-political events.

**Article 46. paragraph 3. point 3  
(Restriction on Advertising Alcoholic Drinks)**

Advertising alcoholic drinks, including any emphasis of the trademark or other label of alcoholic drinks is prohibited.

(...)Exceptionally from the prohibition of advertising referred to in paragraph 1 of this Article, advertising of alcoholic drinks with alcohol content lower than 20% is permitted.

(...)3) by means of electronic media, in cinemas, theatres or other areas in which shows are either broadcast or performed, in the time slot between 18:00 and 06:00, unless they are either thematically and purposefully intended for children.

**Article 47. paragraph 2 point 3  
(Prohibited Advertising of Alcoholic Beverages)**

Advertisements must not show consumption or the imitation of consumption of alcoholic beverages. Advertisement of alcoholic beverages must not:

(...)3) directly or indirectly address children or minors, and they must not show children or minors in the context of consumption of alcoholic beverages;

**Article 49.  
(Warning Message)**

Advertisement of alcoholic beverage must also contain a warning message which indicates the prohibition of sale and serving of alcoholic drinks to children or minors.

**Article 56.  
(Time Slots for Advertising Games of Chance)**

Advertising classical and special games of chance by means of electronic media, as well as in cinemas, theatres or in other areas in which shows are broadcast or performed is permitted, unless they are thematically and purposefully intended for children or minors.

Advertisement of classical or special games of chance must contain a warning of the prohibition of participation of children and minors.

Advertisement of classical or special games of chance must not:

- 1) take advantage of the lack of experience and naivety of children or minors;
- 2) engage children or minors in advertisement, nor can advertisement be addressed to children or minors;

- 3) connect participation in games of chance to the activities intended for children or minors;
- 4) connect participation in games of chance with becoming mature.

### **Article 60. paragraph 3 (Restriction of Pornography Advertising)**

Advertising referred to in paragraph 2 of this Article which points towards pornography is prohibited in specialised television and radio programmes intended for children or minors, as well as in television and radio programmes which, in the time period referred to in paragraph 2 of this Article, broadcast shows intended for children or minors, or whose audience is mainly composed of such children.

### ***c) Law on Public Information and Media***

#### **Article 77 (Protection of Minors)**

In order to protect free development of personality of minors, particular attention shall be devoted so that the content of the media and manner of distributing media do not cause harm to the moral, emotional or social development of minors.

#### **Article 78 (Prohibition of Public Display of Pornography)**

Print media with pornographic content must not be displayed in a manner accessible to minors.

Print media with pornographic content must not contain pornography on the cover and last page, and they must contain a visible warning of their pornographic content, as well as the warning stating they are not intended for minors.

Provisions of a separate law governing electronic media apply to pornographic audio and audio-visual media content, as well as to content distributed online.

#### **Article 80. paragraph 2 (Private Life and Personal Records)**

Minor must not be made recognisable in the information which may harm his/her name or interest.

### ***d) Rulebook on the Protection of the Rights of Minors in the Provision of Media Services***

#### **Definition of Terms Used in the Rulebook Article 2**

**Minors** shall denote persons under the age of 18;

**Particularly vulnerable minors** shall denote minors with serious psychological problems or in a vulnerable situation (e.g. who are victims of domestic, sexual, peer or other forms of violence, of unsound mind, who have committed a criminal offence, attempted suicide, engaged in prostitution or alcohol or drug abuse, whose parents are in prison or have deserted them, et al);



**Pornography** shall denote explicit depictions of sexual organs or sexual intercourse without any particular programme-related or artistic justification;

**Erotic programme material** shall denote material depicting nude human bodies engaged in sexual intercourse or nude bodies, without explicit sexual intercourse scenes (penetration, oral sex, masturbation, et al), or sexual organs in the context of the performance of a sexual activity;

**Reality programme material** shall denote material broadcast predominantly for entertainment purposes and depicting the conduct of the participants (who are, as a rule, taking part with a view to obtaining specific material or non-material gain) in pre-defined, spontaneous or other specific situations (e.g. co-existence in a specific community of people, mutual communication, work, leisure, solving of specific assigned or unexpected concrete life problems, et al) in a natural or artificial environment (e.g. an artificially created community of people in a limited physical environment) and over a specific period of time;

**Children's programme material** shall denote material, which is designated exclusively for minors under the age of 12 by form, content, purpose and time of broadcast (hereinafter: children's programme);

**Programme material designated for minors** shall denote material, which is designated exclusively for minors over 12 years of age by form, content, purpose and time of broadcast;

**Violence** shall denote conduct involving use of force or threat in order to inflict harm on or endanger another individual, living being or object (physical, verbal, psychological or sexual violence);

**Grave violence** shall denote conduct involving use of force resulting in the deprivation of life of or infliction of grave injuries or grave suffering on the victim (e.g. cruel or inhuman treatment, mutilation of people or corpses, sadistic acts), and conduct resulting in numerous casualties or widespread material destruction;

**Sexual violence** shall denote conduct involving use of force or threat to coerce another individual to engage in sexual intercourse or unwanted sexual contact against his or her will;

Depictions of **sexuality** shall denote depictions of private body parts with the aim of arousing sexual desire or depictions of sexual intercourse;

**Fear-inducing scenes** shall denote material likely to induce feelings of shock, fear, anxiety or revulsion of the audience;

**Harmful substances** shall denote substances the abuse of which may be harmful or dangerous due to their composition or other features;

**Dangerous conduct** shall denote conduct by which those engaged therein cause danger to themselves or others and which minors can easily imitate (e.g. setting of a fire in a manner that can easily be imitated by the minors, careless manipulation of dangerous implements accessible to minors, reckless driving of motor vehicles, et al);

**Discriminatory conduct** shall denote any unjustified overt or covert distinction or discriminatory treatment or omission (exclusion, limitation or preference) regarding individuals or groups, as well as their family members or persons close to them, which is based on their actual or assumed personal characteristics (e.g. race, colour, nationality, national affiliation or ethnic origin, language, religious or political opinion, sex, gender identity, sexual orientation, property, genetic features, health condition, disability, marital or family status, criminal record, age, appearance, et al);

**Indecent conduct** shall denote conduct, including speech, which is unacceptable in the context of the average audience (e.g. profanity, indecent gestures or mimicry, et al).

## **General Obligations**

### **Article 3**

Media service providers shall undertake all necessary steps to ensure their programme material does not impair the development of minors, whilst bearing in mind that minors are entitled to a higher degree of protection of free development of personality than adults.

Media service providers shall be guided by the best interests of the minors when rating programme material, during the participation of minors in the programme material, and when publishing information regarding minors or their private or family lives either directly or indirectly.

## **PUBLICATION OF PROGRAMME MATERIAL LIKELY TO IMPAIR THE DEVELOPMENT OF MINORS**

### **Programme Material Likely to Gravely Impair the Development of Minors**

#### **Article 4**

The following material may not be depicted:

1. Pornography;
2. Brutal violence, without particular programme-related or artistic justification; and
3. Other programme material likely to gravely impair the physical, mental or moral development of minors.

Exceptionally, pornography may be accessible to the public only when it is published as part of a protected service (media service with conditional access), which may be accessed via Personal Identification Number (PIN) or another similar conditional access system.

A graphic sign in the form of a red circle with “18+” written inside it in white letters and taking up 1/32 of the screen shall be broadcast in the upper corner of the screen for the entire duration of the programme material referred to in paragraph 2 of this Article.

In the event the programme material referred to in paragraph 2 of this Article may be published only as part of a non-linear media service with conditional access; it shall be placed in a special part of the programme catalogue and thus separated from the other programme material, and be accompanied by the graphic sign referred to in paragraph 3 of this Article. The sign must be displayed for the entire duration of the programme material at issue.

An illustration of the graphic sign referred to in paragraph 3 of this Article and published in Annex 1 to this Rulebook, shall form an integral part of the Rulebook and be posted on the ERMA Website.

## **Programme Material Likely to Impair the Development of Minors**

### ***General Obligations***

#### **Article 5**

Media service providers shall clearly indicate programme material likely to impair the development of minors in the manner set out in this Rulebook and may not publish it at a time when it may be reasonably expected that minors will follow it given their usual activity schedules.

Media service providers providing programme material likely to impair the development of minors as a protected service with conditional access may exceptionally publish such material in the period referred to in paragraph 1 of this Article provided they clearly indicate it in the manner set out in this Rulebook.

### ***Programme Material Rating Obligation***

#### **Article 6**

Media service providers shall rate all programme material likely to impair the development of minors.

Exceptionally, media service providers are not under the obligation to rate news and current affairs programmes and shall rate sports programmes only as provided for in this Rulebook.

Any material likely to impair the development of minors that is broadcast within a news or current affairs programme (e.g. consequences of violence, tragic events or natural disasters) shall be clearly indicated as such immediately prior to the broadcast, by the issuance of an adequate oral or written warning.

### ***Programme Material Ratings***

#### **Article 7**

Media service providers shall rate programme material likely to impair the development of minors as follows:

1. Programme material unsuitable for minors under the age of 12;
2. Programme material unsuitable for minors under the age of 16;
3. Programme material unsuitable for persons under the age of 18.

***Broadcasting Times of Rated Programme Material  
within Linear Media Services***

**Article 8**

Programme material unsuitable for minors under the age of 12 may be broadcast only at times when it may be objectively expected that they are following the programme in the presence of their parents, given their usual activity schedules (e.g. the time they leave for school, workdays/ non-work days, school holidays, usual working hours, et al).

Programme material unsuitable for minors under the age of 16 may be broadcast only between 22:00 and 06:00.

Programme material unsuitable for persons under the age of 18 may be broadcast only between 23:00 and 06:00.

The time restrictions referred to in paragraphs 1, 2 and 3 of this Article shall apply both to premiere and repeat broadcasts of the programme material at issue.

No time restrictions shall apply to the broadcast of programme material referred to in paragraphs 1, 2 and 3 of this Article, which is part of a protected service (media service with conditional access), accessed via a Personal Identification Number or another similar conditional access system.

***Periods of Accessibility to Rated Programme Material  
within Non-Linear Media Services***

**Article 9**

Programme material referred to in Article 7, items 1) and 2) of this Rulebook, may be publicly accessible within the non-linear media services at all times.

Programme material referred to in Article 7, item 3) of this Rulebook, may be publicly accessible within non-linear media services only between 23:00 and 06:00, unless it is part of a protected service (media service with conditional access), accessed via a Personal Identification Number (PIN) or another similar conditional access system, when it may be accessible at all times.

***Indication of Rated Programme Material in Linear Media Services***

**Article 10**

Media service providers shall indicate programme material unsuitable for minors under the age of 12 by publishing the following written and oral announcement: “The following programme is not suitable for persons under the age of 12” and a graphic sign in the form of a green circle with the number “12” written in it in white.

Media service providers shall indicate programme material unsuitable for minors under the age of 16 by publishing the following written and oral announcement: “The following programme is not suitable for persons under the age of 16” and a graphic sign in the form of a yellow circle with the number “16” written in it in black.

Media service providers shall indicate programme material unsuitable for persons under the age of 18 by publishing the following written and oral announcement: “The following programme is not suitable for persons under the age of 18” and a graphic sign in the form of a red circle with the number “18” written in it in white.

The written and oral announcements referred to in paragraphs 1, 2 and 3 of this Article shall be broadcast immediately before the beginning of the rated programme material.

The graphic signs referred to in paragraphs 1, 2 and 3 of this Article shall be broadcast in the upper corner of the screen for the entire duration of the rated material and shall take up 1/32 of the screen.

Rated programme material broadcast within a radio programme shall be indicated by the oral announcement referred to in paragraphs 1, 2 and 3 of this Article, which shall be broadcast immediately before the broadcast of the programme material and after every break in its broadcast.

Illustrations of the graphic signs referred to in paragraphs 1, 2 and 3 of this Article and published in Annexes 2, 3 and 4 to this Rulebook, shall form an integral part of the Rulebook and be posted on the ERMA website.

### ***Indication of Rated Programme Material in Non-Linear Media Services*** **Article 11**

Non-linear media service providers shall indicate rated programme material by clearly placing the graphic signs referred to in Article 10, paragraphs 1, 2 and 3 of this Rulebook next to the programme material they apply to in the programme catalogue.

### ***Promotions of Rated Programme Material*** **Article 12**

Rated programme material may be promoted only in periods when it may be broadcast.

In the event the rated programme material is promoted by the broadcast of brief excerpts from the material (so-called promo material):

1. The graphic signs referred to in Article 10, paragraphs 1, 2 and 3 of this Rulebook shall be broadcast in television programmes for the duration of the promotions;
2. The oral announcements referred to in Article 10, paragraphs 1, 2 and 3 of this Rulebook shall be broadcast prior to the promotions of such material in radio programmes.

### ***Programme Material Rating Standards*** **Article 13**

When assessing whether particular programme material must be rated as unsuitable for minors, media service providers shall review whether it includes the following potential harmful material:

1. Violence and its consequences;
2. Sexual violence;
3. Nudity;
4. Sexual acts;
5. Fear-inducing scenes;

6. Smoking and/or abuse of psychoactive substances, alcohol or other harmful substances;
7. Dangerous conduct;
8. Discriminatory treatment; and,
9. Indecent conduct.

When assessing whether particular programme material must be rated as unsuitable for minors, media service providers shall also take into account the context in which the potentially harmful material referred to in paragraph 1, items 1)-9) of this Article is depicted, notably:

10. The goal or character of the programme material in which potentially harmful material is depicted (e.g. potentially harmful material depicted in an educational, historic or comic context is as a rule rated less stringently);
11. The character of the material of the media service within which the particular programme material is published (e.g. media service specialised for children's programme material);
12. Whether fictional or non-fictional programme material is at issue (e.g., non-fictional programme depicting violence is as a rule rated more stringently);
13. The degree of realism of the potential harmful material (e.g., when the material regards a fantasy world and the violence occurs among supernatural beings, the programme material will, as a rule, be rated less stringently; by contrast, when the material regards an environment familiar to minors, such as a family or school environment, the presence of violence will, as a rule, be rated more stringently);
14. The number, duration, frequency, intensity (the degree of audio, visual or verbal emphasis) and detail of the depicted potentially harmful material (e.g. detailed and intensive depiction of bodily injuries, blood or other scenes likely to invoke feelings of unease, fear, anxiety or revulsion, will, as a rule, result in the more stringent rating of the programme material);
15. The expected impact the programme material will have on the audience, especially the environment and climate in which the potentially harmful material is depicted (e.g., programme material is, as a rule, rated more stringently in the event the grave consequences of violence or sexuality are depicted in a dark social environment or climate);
16. The attitude towards violence, abuse of harmful substances, dangerous conduct or discriminatory treatment taken in the programme material (e.g. programmes in which violent conduct is viewed critically shall, as a rule, be rated less stringently);
17. Time of production of the programme material (e.g. conduct likely to be perceived as unacceptable today shall be rated less stringently if it is depicted in programme material produced at a time when such conduct was acceptable).

Media service providers shall rate programme material likely to impair the development of minors by applying the standards referred to in paragraphs 1 and 2 of this Article, after having assessed the fulfilment of these standards both individually and together.

### ***Programme Material Unsuitable for Minors under the Age of 12***

#### **Article 14**

Programme material unsuitable for minors under the age of 12 shall be characterised by occasional, moderately long, moderately intensive and moderately detailed depictions of material referred to in Article 13, paragraph 1, items 1)-9) of this Rulebook, which are not unsuitable for minors over 12 years of age given the context they are depicted in and are characterised by the following:

1. Occasional depictions of moderate violence and its consequences, while grave violence and its consequences may be depicted briefly, but without detail. Exceptionally, brief and rare scenes including detailed depictions of grave violence and its consequences, may be present in programme material provided such depictions are justified by their educational purpose;
2. Sexual violence may not be depicted, but the development of the plot may indicate it has occurred;
3. Nudity may be depicted, but not in the context of sexual activity;
4. Sexual activity may be depicted occasionally and discretely;
5. Fear-inducing scenes may be depicted moderately, as long as they are not frequent or particularly emphasised;
6. Depictions of smoking and/or abuse of psychoactive substances, alcohol or other harmful substances may not be frequent; nor may the gravity and effects of abuse be presented as entertaining or downplayed;
7. Dangerous conduct may not be depicted in detail, nor may positive views of such conduct be expressed in the programme material on the whole;
8. Depictions of discriminatory treatment may not be accompanied by positive views of such treatment, nor may such treatment be depicted when it accompanies the commission of violence;
9. Moderately indecent behaviour is permitted, but it may not be frequent or represent the predominant mode of communication (e.g. run of the mill profanity), while extremely indecent behaviour may be present only briefly, but under no circumstances when it is used as an act of aggression or to offend someone.

### ***Programme Material Unsuitable for Minors under the Age of 16***

#### **Article 15**

Programme material unsuitable for minors under the age of 16 shall be characterised by frequent, long, intensive and detailed depictions of material referred to in Article 13, paragraph 1, items 1)-9) of this Rulebook, which are not unsuitable for minors over 16 years of age given the context they are depicted in and are characterised by the following:

1. Grave violence and its consequences may be depicted in detail, but the programme material may not particularly focus on scenes in which they are depicted in detail;
2. Sexual violence may be depicted only discretely, without particular focus on the details of such conduct or the suffering of the victims;
3. No restrictions apply to depictions of nudity as long as it is not depicted in the context of sexual acts, in which case these depictions may not be detailed;
4. Sexual acts may be depicted frequently, but not in detail, except in the context of sex and human health education;
5. Fear-inducing scenes may be depicted frequently and intensively, as long as they are not the consequence of sadistic or sexual conduct;
6. Depictions of smoking and abuse of psychoactive substances, alcohol or other harmful substances may be frequent, but the programme material on the whole may not express positive views of such conduct;
7. Dangerous conduct may be depicted in detail, but the programme material may not particularly focus on scenes depicting such conduct in detail, nor may positive views of such conduct be expressed in the programme material on the whole;
8. Depictions of discriminatory treatment are permitted even when it accompanies commission of violence, but positive views of such treatment must not be expressed in the programme material on the whole;
9. Extremely indecent behaviour may be depicted frequently, but the gravest forms of indecent behaviour may be depicted only briefly and under no circumstances may they be depicted if they are used as an act of aggression or to offend someone.

***Programme Material Unsuitable for Persons under the Age of 18***  
**Article 16**

Programme material unsuitable for persons under the age of 18 shall be characterised by very frequent, very long, very intensive and very detailed depictions of material referred to in Article 13, paragraph 1, items 1)-9) of this Rulebook and are characterised by the following:

1. Particular focus on detailed depictions of grave violence and its horrific consequences;
2. Depictions of sexual violence with particular focus on the details of such conduct and the suffering of the victim;
3. Detailed depictions of sexual acts, provided that sexual arousal is not the primary purpose of the programme material;
4. Depictions of erotic material;
5. Very detailed and very intense presence of fear-inducing scenes;



6. Detailed depictions of the abuse of psychoactive substances, alcohol or other harmful substances, including in the event negative views of such conduct are not expressed in the programme material on the whole;
7. Detailed depictions of dangerous conduct, including in the event negative views of such conduct are not expressed in the programme material on the whole;
8. Detailed depictions of discriminatory conduct, including in the event negative views of such conduct are not expressed in the programme material on the whole;
9. Depictions of the most indecent conduct, including when it is used as an act of aggression or to offend someone.

Programme material, the publication of which is prohibited by law, may not be rated as suitable for persons under the age of 18, in particular:

10. Programme material highlighting and espousing violence, conduct defined as a criminal, misdemeanour or commercial offence under the law, or abuse of psychoactive substances, as well as material abusing the credulity of the audience in terms of Article 47, paragraph 1, item 4) of the Electronic Media Law;
11. Material violating the dignity of person or other human rights, particularly in the event it depicts degrading treatment, scenes of violence and torture, unless there is programme-related and artistic justification for it in terms of Article 50, paragraph 2 of the Electronic Media;
12. Material including information openly or covertly inciting discrimination, hate or violence on grounds of race, colour, ancestry, nationality, national affiliation, language, religious or political opinion, sex, gender identity, sexual orientation, property, birth, genetic features, health condition, disability, marital or family status, criminal record, age, appearance, membership of political, unionist or other organisations or other actual or assumed personal characteristics, in terms of Article 51 of the Electronic Media Law;
13. Material encouraging acts directly undermining the constitutional order or acts of direct violence against individuals or groups of individuals on grounds of their race, national affiliation, political affiliation, religion, sexual orientation, disability or another personal characteristic, in terms of Article 59 of the Public Information and Media Law (Official Gazette of the Republic of Serbia No. 83/14);
14. Material, during the production of which an animal was killed, abused or encouraged to act aggressively or engage in unnatural conduct, in terms of Article 7, paragraph 1, item 24) of the Animal Welfare Law (Official Gazette of the Republic of Serbia No. 41/09);
15. Material propagating or advertising prostitution in terms of Article 184, paragraph 1 of the Criminal Code (Official Gazette of the Republic of Serbia Nos. 85/05, 88/05, 107/05, 72/09, 111/09, 121/12 and 104/13);

16. Pornographic material created by abuse of minors, in terms of Article 185, paragraph 4 of the Criminal Code;
17. Material advocating change of the constitutional order of the Republic of Serbia by use of force, in terms of Article 309, paragraph 1 of the Criminal Code;
18. Material advocating a war of aggression in terms of Article 386, paragraph 1 of the Criminal Code.

### *Special Provisions on Broadcasts of Reality Programme Material*

#### **Article 17**

Reality programme material shall be deemed unsuitable for minors under the age of 16 in the event it depicts indecent behaviour, which is not used as an act of aggression or to offend someone, or the consumption of alcoholic drinks, unless it is left out of the recording or is fully covered by the use of a high frequency sound (beep), the blurring of the image or in another similar manner.

Reality programme material shall be deemed unsuitable for persons under the age of 18 in the event it depicts violence, indecent language used as an act of aggression or to offend someone, smoking, immoderate consumption of alcoholic drinks or nudity.

Reality programme material may not depict grave violence, sexual acts, abuse of psychoactive substances or conduct amounting to hate speech or violating human dignity or other human rights.

Media service providers shall immediately interrupt the direct (live) broadcasts of reality programme material in the event of an escalation of violence or indecent conduct aimed at offending someone in the event they are unable to avoid the depictions of such conduct in another manner (e.g. by turning off the sound, changing the sequence, et al).

### *Special Provisions on Broadcasts of Sports Programme Material*

#### **Article 18**

Sports programme material shall not be rated.

Exceptionally, live or delayed broadcasts of extreme martial arts (e.g. Mixed Martial Arts (MMA) et al), which may include depictions of grave violence, shall be rated as unsuitable for minors under the age of 16.

In the event of physical clashes among the viewers or participants in a sports event, disorder or unauthorised entry into the sports field during the broadcast of the sports event, the media service providers may depict them during the broadcast only if they resulted in the disruption of the course of the sports events (e.g. in the temporary interruption of a game) and to the extent necessary to inform the audience of the reasons that affected the regular course of the sports events.

The restriction referred to in paragraph 3 of this Article shall not apply to depictions of the physical clashes, disorder or unauthorised entry into the field in the news programmes.

## ***Special Provisions on Broadcasts of Programme Material Regarding Suicide***

### **Article 19**

Programme material depicting suicide methods may be broadcast only if justified by the purpose and character of such material (e.g. programme material that is artistic or educational in character), but such programme material shall be rated as unsuitable for minors under the age of 16.

When informing the public about successful or attempted suicides, media service providers are under the obligation to refrain from:

1. Specifying the details on how the individuals committed or attempted to commit suicide;
2. Publishing information about successful or attempted suicides in the news programme highlights (e.g. top headlines, news of the day, or as the leading or most important news, et al);
3. Publishing recordings of the very acts of suicide, the photographs of the deceased or the places where they committed suicide;
4. Approving suicide and suicide attempts;
5. Presenting the reasons for successful or attempted suicides in a simplified fashion (e.g. suicide was committed for only one reason, et al).

Along with the information referred to in paragraph 2 of this Article, media service providers shall also publish the contact details of the relevant organisations focusing on suicide prevention, if the character and duration of the programme material within which such information is published allow for the publication of such details.

The provisions of this Article shall also apply to material regarding self-injury.

## ***Children's Programmes and Programme Material Designated for Minors***

### **Article 20**

Children's programmes must be suitable for minors under the age of 12 and designed to encourage them to acquire, maintain and develop virtues (understanding, compassion, mercy, courage, reasoning, honesty, fairness, eruditeness, love, et al) and endeavour to provoke positive feelings in them (feelings of pleasantness, happiness, admiration, compassion, et al).

Children's programmes may address specific issues regarding the growing up and development of children (e.g. relations with peers, learning problems), but their presentation must be tailored to their age.

Programme material designated for minors must be suitable for minors 12 years of age or older and it may address serious issues regarding their growing up and development (e.g. problems of adolescents, peer violence, domestic violence), as well as other social issues within their [intellectual and psychological] grasp.

Violence, smoking, abuse of psychoactive substances, alcohol or other harmful substances or indecent conduct may not be depicted in children's programmes or programme material designated for minors unless such depictions serve an educational

purpose or indicate the unacceptability of such conduct, in which case they must be tailored to their age.

Nudity and sexual acts may not be depicted in children's programmes or programme material designated for minors unless they serve an educational purpose, in which case they must be tailored to their age.

Children's programmes and programme material designated for minors may not include information inciting children or minors to engage in conduct jeopardising their physical, psychological, emotional or other integrity.

In terms of paragraph 6 of this Article, such programme material in particular may not include depictions of minors in dangerous situations (e.g. climbing unsafe structures; entering unfamiliar rooms; talking with people they do not know; using matches, lighters, petrol, medications and household appliances), unless they serve to warn of the risks to the health and safety of minors, or to their integrity.

A gradual transition must be made between children's programmes/ programme material designated for minors and other programme material not designated for them. Such transitions may not be sudden and they must involve adequate breaks.

## **Teletexts**

### **Article 21**

In the event teletext services include programme material announcements or schedules, the media service providers shall indicate the rated programme material by placing the number signifying its rating whilst ensuring that it is clear which programme material it refers to.

Material likely to impair the development of minors may not be published within the teletext services.

## **PARTICIPATION OF MINORS IN PROGRAMMES**

### **Programme Participation Consent**

#### **Article 22**

Participation of minors in programmes shall be subject to the consent of their parents, guardians or adoptive parents (hereinafter: parents).

Parents shall provide their consent in writing in the event the minors at issue are particularly vulnerable.

Parental consent shall not relieve the media service providers of their obligation to devote due attention also to the opinions of the minors about their participation in the programmes. Minors cannot be forced to take part in programmes against their will.

The parents and the minors must be promptly, clearly, truthfully and comprehensively notified of all facts of relevance to their decision on consenting to participation in a programme.

The consent of the parents and minors shall not relieve the media service providers of their obligation to devote particular attention to the participation of minors in programmes or of their liability for the published material.

The obligation to obtain consent shall not apply to depictions of minors within groups of people (e.g. a concert audience, passers-by on the street, et al) or if they are part of the landscape, nature, scenery, urban settlement, square, street, or a similar scene.

## **Participation of Particularly Vulnerable Minors in Programmes**

### **Article 23**

Particularly vulnerable minors may take part in programmes in the event their participation regards any of the reasons for their particular vulnerability, provided their identity is protected.

In cases under paragraph 1 of this Article, all the necessary measures have to be undertaken to ensure the anonymity of the minors (e.g. masking or blurring of their images, distortion of their voices or use of other people's voices, omission of data likely to indicate their identity directly or indirectly, acting, et al), and particular consideration needs to be taken of the necessary degree of anonymity (whether the identity of the minors has to be concealed only from the public at large or their family and friends as well).

The audience must be clearly informed that acting or voices of other people are used to protect the identity of particularly vulnerable minors.

The provisions of this Article shall not apply to programmes in which one or more minors with intellectual or physical disabilities are taking part, especially to programme material aiming to inform the public of the conditions such persons are living, working or schooling themselves in and to promote the respect for diversity and their inclusion in society on an equal footing.

## **Respect of the Minors' Dignity and Free Development of Personality**

### **Article 24**

The dignity of person of minors participating in programmes must be respected and their participation must be tailored to their age, maturity, reasons for participating and their susceptibilities to those reasons.

In terms of paragraph 1 of this Article, it is specifically prohibited to humiliate minors, expose them to discriminatory treatment, ask them about sensitive family problems or topics inappropriate to their age, or expose them to situations which may provoke feelings of fear, shame, anxiety or rage in them.

Minor participants in programmes, who are suffering from grave illnesses, intellectual disabilities or conspicuous physical defects or disabilities, may not be treated with pity or the intention to provoke the feeling of pity for them in the audience because of their health condition.

Abuse of participation of minors in programmes for political or other purposes shall be prohibited.

## **Suitability of Participation Awards**

### **Article 25**

The character, form, quality and other features of awards given minors participating in children's programmes and programme material designated for minors must be suitable to their age.

## **Prohibition of Participation in Specific Programme Material**

### **Article 26**

Minors under the age of 14 may not participate in programme material broadcast directly (live) after 22:00.

Minors under the age of 14 may not participate in programme material involving the reconstruction of crimes, violence or dramatic tragic events.

Minors may not take part in programme material regarding family conflicts they are involved in directly or indirectly.

## **PROTECTION OF MINORS WHEN SUBJECT OF INFORMATION**

### **Protection of Identity with Respect to Specific Information**

#### **Article 27**

Media service providers are under the obligation to protect minors if there are indications that they are the perpetrators, witnesses or victims of violence, acts of crime or other prohibited conduct, or attempted suicide.

Media service providers may publish audio or audio-visual recordings of acts of violence or crime or other prohibited conduct, in which minors had participated, if there is justified public interest thereto, provided they comply with their obligation under paragraph 1 of this Article (e.g. by blurring or masking their images or distorting their voices).

In cases referred to in paragraphs 1 and 2 of this Article, media service providers are under the obligation to refrain from publishing data directly revealing the identity of the minors (e.g. their names, the names of their parents or close relatives, home address, et al) and data likely to indirectly indicate their identity, either on their own or together with data that are already publicly available (e.g. the school they go to, their workplace, their personal description, photographs or video recordings of them, et al).

Media service providers are under the obligation to protect the identity of minors even when it has not been protected by public authorities or other persons, including other media publishers, whose press releases or statements they are broadcasting about cases referred to in paragraphs 1 and 2 of this Article.

### **Protection of Private and Family Life**

#### **Article 28**

Information about the private and family lives of minors may not be published in the event their disclosure would result in the violation of their interests and dignity.

Media service providers are under the obligation to pay particular attention to the privacy of minors, including the fact that their right to privacy does not cease because their parents or other people close to them exercise public office, actively participate in public life or are otherwise known to the public.

Programme material focusing on establishing the identity of the parents of minors shall be prohibited (e.g. contestation or establishment of paternity or maternity), whether or not those minors are under parental custody.

Programme material involving debates on granting custody of minors to one of the parents or on reasons why minors should be placed in foster care or put up for adoption shall not be permitted.

Family conflicts, in which minors are involved directly or indirectly, may not be used in programme material for public entertainment purposes.

The publication of data on guardianship, foster care or adoption of individual minors shall be prohibited.

### ***e) Rulebook on the Protection of Human Rights in the Provision of Media Services***

#### **Article 23**

#### **(General Prohibition of Taking Advantage of Naivety)**

Providers of media service must not take advantage of naivety of programme participants or users of media service, while particular attention shall be devoted to the interests of minors, severely ill people, people with mental illness or disorders in mental development or people who have been through trauma as victims of violence or tragic event.





# Annex 2: Cases related to protection of minors from South-East Europe<sup>36</sup>

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## 1. CASES RELATED TO BROADCASTING OF CONTENT THAT MIGHT SERIOUSLY OR IS LIKELY TO IMPAIR THE PHYSICAL, MENTAL OR MORAL DEVELOPMENT OF MINORS; CASES RELATED TO SCHEDULING AND LABELLING OF CONTENT

### ALBANIA:

#### 1) Klan television, 2017

The program titled “Rudina” addressed an inappropriate theme for children during the watershed, thus violating children’s rights in audiovisual broadcasting.

#### *AMA action*

Attention Note for violations of children’s rights in audiovisual broadcasting.

#### 2) Channel 1 television, 2018

During the news, a TV station broadcast an inadequate cinematographic production for children.

#### *AMA action*

Attention Note for violations of children’s rights

#### 3) Channel 1 television, 2018

The television broadcasted an inadequate cinematographic production for children without warning signs, exerting bad influence on the healthy development of children.

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<sup>36</sup> WARNING: Cases presented within Annex 2 refer to broadcasted content and were subject to NRAs’ consideration. Presented content may strike some readers as vulgar, offensive and prurient. As this publication is intended for professionals dealing with protection of minors, this content is given in descriptive and explicit manner, as broadcasted.

### ***AMA action***

Announcement for interruption of broadcasting.

#### **4) Vizion Plus television, 2018**

During the broadcast of the programme titled “Al Pazar”, inappropriate vocabulary for children was used, which could harm their mental, physical or moral development and was considered as a violation of communication ethics.

### ***AMA action***

Attention Note for violating the ethics of audiovisual communication, inappropriate vocabulary, which could harm the mental, physical or moral development of children.

#### **5) “ALB telecom” company, 2018**

### ***AMA action***

An immediate note for interruption of broadcasts not to transmit pornographic programmes without the protection of minors through conditional access equipment and parental control.

## BOSNIA AND HERZEGOVINA:

### 6) Radio 202, 2007, violation of provisions related to decency and civility and watershed rules<sup>37</sup>

CRA received a complaint about the programme “Central Prison” broadcast by Radio 202 between 15:30 and 17:00 hours, for playing songs of exceedingly vulgar content.

The analysis showed that the programme in question featured songs “Dear President Bush” and “The Serb Enlists Gladly in the Army” by Croatian band Let 3, as well as the song “Mr. Policeman” by Bosnian hip-hop singer Frenkie. In addition, it seemed to have caused extremely negative reactions from a number of listeners who called in the programme in order to voice their opinion on the content of the broadcast songs and discuss the appropriateness of such content for younger audiences. It should also be pointed out that a commercial using a child’s voice was broadcast five minutes before the song “The Serb Enlists Gladly in the Army”.

Lyrics to the broadcast songs<sup>38</sup>:

“The Serb Enlists Gladly in the Army”

Cunt.

Oozing from Cunt is jelly as thick as the salty sea.

And cock as a ladle.

Cunt as a bread’s crumb.

Cunt as the Empire State Building

Cunt as the Bridge on the Drina

Cunt as a column of stone.

Cunt as a pure soul, soul.

“Mr. Policeman”

Mr. Policeman always sets the edge,

He is always right ‘cause he wears the badge.

Mr. Policeman does not have enough wisdom

That is why he defends the rotten system.

Their heads are empty like giant tuns,

They get on my nerves and ruin the view when I go out on the town.

I’ll give you my middle finger and then some

Suck my dick, you underpaid scum.

Thank you, Europe, for democracy,

Police and politicians, they can all suck my dick,

Along with the president – all three of them in fact.

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37 At the time of broadcasting, the valid regulation did not include provisions related to classification of programmes.

38 Translation by the CRA; the original lyrics are in Croatian/Bosnian.

I'll get away easily with these lines that I write,  
The police will come if their luck is right.  
By the way, bro, the police always gets stuck.  
The police stinks like a giant garbage truck.  
Their only policy is to score a tenner.  
If you can't spend a tenner, don't show greed,  
Give our dear police at least a fiver, do a good deed  
They'll be flattered, they'll have a happy look,  
the jerk will let you off the hook.

Middle finger up and repeat after me: Fuck the police.  
Don't be shy, stand by me big,  
Bro, raise your middle finger high, say:  
Fuck the pig, fuck the pig, fuck the corrupt pig.

Transcript of a part of the conversation between the host and a listener:

Host: You are right in that respect. I've also had a problem for playing a song by Edo Maajka. These things are not defined when it comes to songs. It would be a different thing if I, as the host, was to say that on air. However, the boundaries are not defined. We had played Let 3 before, at 11 o'clock even, perhaps even worse than this one. I would rather not cite the lyrics. That is the thing.

Listener: See, Baftić, there should be certain boundaries. Maybe you have a daughter, maybe you don't, maybe you'll have one someday. I am asking you a question. When she is five, six, seven years old and hears this on your radio, how will you explain to her why you are playing this? There are plenty of little girls listening, and boys too, who will now think that all of this is permitted, and then you have them wearing guns, buying drugs etc.

Host: I agree, I absolutely agree on this point. I can tell you, I've had problems and similar shows before.

Listener: That's not something you should be bragging about.

Host: All I am saying is that we don't have absolutely defined, no defined boundary when it comes to music. I played that number about President Bush somewhere at the beginning of the show, there are also curse words present throughout. There isn't a defined boundary. I think that the boundary should be that it is more or less clear which group of people listens to this show and whom this show is addressing. This show is certainly not meant for seven-year old girls, but for some more mature people.

Listener: Baftić, I agree that this kind of music can be played on radio at 1 AM. You know what I mean. I drive my car, listen to that and it will not bother me. If it does, I switch to a different channel. But that is after midnight. You can play that at four AM, too, when there is only a small number of people listening. But at this hour, there is a chance that there are kids listening, too. And you, as a team, should make, should yourself define that boundary so you do not cross the line of good taste. Do not be improper. Why would you want me, your long-time listener who calls in quite often, be irritated in any way. Let me tell you, you have certainly irritated

many of your lady listeners whom I respect very much. They listen and call in, but they will not react.

### *CRA action*

In its response to CRA's initiation of proceedings, the station stated, inter alia, that the CRA's interference in this case would lead to the censorship of Radio 202, the censorship of music artists and the freedom of expression, and that they would with all democratic means defend the right to different music and the artists' right to create art without oppression, interference, censorship and self-censorship. CRA, a few days after the initial letter, also addressed the director general of the Radio-Television of the Federation of Bosnia and Herzegovina, a public service broadcaster under which Radio 202 operated, asking whether the opinion of the Radio 202 editor-in-chief represented the PBS's official view on the programme in question. The RTV of the Federation of Bosnia and Herzegovina failed to provide a reply.

Taking into account the programme content and views expressed by the host and the listeners, one gets the impression that the host, who was also the editor of the show, was aware in advance of the fact that the content in question and its attribution to the "right to free artistic expression without oppression" could fall outside generally accepted boundaries of decency and civility. What was found to be of particular concern was the level of irresponsibility demonstrated by both the editor and the management to serve the public in a professional manner, as well as the official position of the editor-in-chief who tried to justify this type of content by presenting it as a support for alternative culture and the right to different music, without taking into account generally accepted standards of decency and civility, and without paying due attention to the protection of children and minors taking into account the fact that the programme was broadcast at a time when it was likely to be accessible to children and minors (from 15.30 to 17.00 hours).

Radio 202, which operates within the public broadcasting service, with its specific role and responsibility, has a special duty to support high standards and professionalism in broadcasting. The utter neglect of these obligations by the station has also been demonstrated by the fact that the CRA's reaction was characterised as a form of censorship and the suppression of the freedom of the media and artists, and not as an indication of their failure to respect the obligations of the public broadcaster. In its decision, the CRA stated that it fully supports the efforts to establish full freedom of speech and expression and does not dispute the commitment of the station to broadcast programmes devoted to alternative culture and other forms of culture and subculture, in order to promote and affirm artistic freedoms. However, on the other hand, the obligation of the programme creators, especially in this case of the public service broadcaster, must be fully in line with the CRA rules which set certain standards in broadcasting so that the broadcast program would not have the opposite effect.

Exercising the right to freedom of expression implies a certain respect for the media's specific relationship with society, not only in terms of being at its service, but also in terms of the responsibility that media should demonstrate by their professional behaviour, which includes the respect of the basic principles of decency and civility. It is precisely in the context of the public service broadcasters' accountabil-

ity to the public, that the expectations for them to pay due attention to the selection of programme content and the time of broadcast are especially significant. In addition to the fact that the programme in question was unsuitable for the time in which it was broadcast, the content was found to be in violation of the basic norms of decency and civility. A financial sanction in the amount of ca. 5 000 EUR was imposed.

## 7) OBN, 2015, categorisation and scheduling of content of the reality show “Big Brother”

The following content was broadcast at 9:35 AM:

*What the fuck...god dammit, how do you turn that fucking coffee shit on...Jesus fuck his mother...in my mother's cunt...I have a fucking inflammation, you fuckin'...look at his cocksucking face...goddamn you... go fuck yourself...what the fuck are you opening that door for...son of a bitch...don't try to fuck me, you may need me someday...what am I supposed to eat for breakfast, for fuck's sake...she is shaking like a fucking bunny...Fuck me, I can hardly remember anything..*

Next day, the following content was broadcast between 9:30 and 10:00 AM:

*– Fuck, there is no milk; Fuck it, you jump into the water and...; Dammit, that can't be changed at all, fuck it; He fell in love with Big Brother, fuck him, yes, fuck him, he was charmed by the colour of his...; Yes, damn it...; This one's sniffing like a madman, for cunt's sake...; Holy fuck, I grew out my moustache but...; I had a beard, pity I couldn't take pictures, fuck me...; Fuck, that doesn't even exist in mother's cunt; It would go away if you made a cross on your head, fuck it; I fell asleep on the beach, I wore lots of sunscreen, I don't know which, Coppertone or some motherfucking shit, something against sunbathing...; Damn it, I was naturally a little bit thinner...; Fuck, I walk down the Stradun in an unbuttoned shirt; Everybody's looking at me now, like what the fuck...; That was in, what year was it, for your mother cunt's sake,'88...; Motherfucker, I left the white cross, c'mon...; Why can't I find a pussy with a Mercedes 500, a house...; She can be without one leg, this pussy of mine, if she has a Mercedes, that is my kind of woman, I don't mind if she's missing an eye either...; What towel, nobody has a towel, for fuck's sake; Everything is falling apart here for fuck's sake; No, motherfucking beans...; Did you take the juice, where is it ...God damn you; You are such motherfucking losers...; Who am I spending my time with, motherfuckers...; You can suck my dick if you spend time and lose...; Where are those glasses for cunt's sake..., all of a sudden they are all gone; You are late, where is that damn shit, you are late, what the fuck...; If she made beans, that would be...motherfucking; Why the fuck are your hands trembling; We need to expand our capacities, we are overbooked, for fuck's sake; What pie, go fuck yourselves with that pie; For fucking starters, cream of hollow onion soup, I'll be damned; Some fucking small classes; They are cigarette hunters, for fuck's sake; Fuck it, (s)he has three dicks; Come on, wake up, ok, the fuck it's ok, come on get up...; Let's go pussies, let's go, cooling time inside and outside (one of the participants shakes the blanket from one of the female participants up and down in order to wake her up)*

In one scene, two participants are replacing batteries on portable microphones, having the following conversation:

- *I don't have fucking nails. Take these two out for me, fuck them.*
- *So do you forget to take it out when you fuck somebody, or you just keep banging like an idiot...*
- *Suck my dick. What now, does this go on this...*
- *Male on female, brother...*
- *Fuck this...*

Analysis of this reality programme's broadcast on the same day at 14:54 o'clock, showed:

Announcement of events at the house of Big Brother. One of the participants, Zorica, tells Big Brother that there was *sex on the first day of Big Brother and bingo*. There is a few-seconds long scene in which Stefani, one of the participants, is seen with drinking glasses hanging on her naked breasts. In another scene, Stefani says to Ervin: *"It was my pleasure having a sexual intercourse with you and that's that..."* The main topic of the Big Brother edition for this day was what happened between two participants, Ervin and Stefani. Giba Vasić, one of the participants, answers the Big Brother's question about the most interesting moment: *"Everything was interesting, but sex was the most interesting because it happened spontaneously and quickly. There was some chasing around, but this chick Stefani was drunk as I understood, so she kept changing her mind, but in the end, it happened...Maybe she is sorry, maybe she doesn't even remember, but I found the sex interesting, it was my first time to watch it live..."*

During breakfast, the participants are commenting on how Stefani got drunk and had sexual intercourse with Ervin. They ask her: *"What is his wiener like, small or big?"*

Stefani asks other participants: *"Could you see my lower parts..."* Mika Vasić comments: *"All of it was visible, even that thing, you could see that it's shaven..."*

Stefani claims that she did not remember what happened the previous night and asks Ervin whether they had sex or not. Later on, Stefani is talking to other participants: *"He is fine, man, he is handsome. My sexual partner was fine..."*

Further, Stefani is shown in the confession room, commenting on the previous night's events. She says that she had fallen asleep drunk and woken up even drunker, and that she could not remember anything. The last thing she remembers was drinking vodka and beer, and she generally cannot remember a thing when drunk. Stefani asks the Big Brother whether she and Ervin had sex because she could not remember anything. At 15:17, Ervin asks Stefani if she will be drinking that night, she replies affirmatively but points out that she will stick to beer. Stefani then asks Ervin if he will be drinking, and he replies *"I will, I always drink"*, and Stefani adds: *"How could I not drink, I always have to drink, it helps me fall asleep faster"*. At 15:18, Stefani is looking forward to a new party and alcohol, she tells Ervin and Goran: *"I am ready for tonight, ready to drink, to drink, to drink"*. Other participants warn her that she had crossed the line the previous night; she replies that she had done it on purpose.

Continuation of the events from the Big Brother house – time of broadcast from 15:50 to 16:15:

Stefani and Ervin are in the bedroom. Vasić family are watching them on screen in the secret room and making comments. Ervin and Stefani are seen in bed, under the sheets, kissing. Vasić comments on Stefani's behaviour: *"I told you she was a prostitute"* Other participants are also watching Ervin and Stefani's video from the bedroom. Ervin and Stefani are seen in bed, under the sheets, while Stefani whispers: *"Shake my ass"*... which is written in subtitles on the screen. Vasić family comments in the secret room that Ervin must have taken Viagra. Giba Vasić says: *He likes to lick her ears a lot..* Mother Vasić says *"better to hump this than that"*. Giba adds *"I mean, better to lick her ear than to have to lick her pu...(bleep censor)* In the bedroom video, Stefani is getting up from the bed and saying: *"Every time I'm with you, I lose basic things..."* Ervin gets up, too, and they are looking for Stefani's panties.

Next, the participants are shown by the pool. Stefani says to Ervin: *"It was my pleasure having sexual intercourse with you and that's that..."* Again there is a video of Ervin and Stefani in bed. Stefani comments on Ervin's interest in other female participants: *"Go and stick it in another woman, but I think it's stupid, I'm not jealous", "I would never jerk of my cunt to another man, out of consideration for you."*

Next day, the following content was broadcast at 9:36 AM:

- *She is coming, she needs to replace her tampon. – Crimson wave, eh? Aunt Flo and cousin Red...*
- *fuck Nescafe, fuck this coffee;- suck dick, dick and cunt;- where is motherfucking Ivona's coffee without sugar;...maybe I didn't, fuck it, these are mine (cigarettes), there is one left cocksucker...I'll have a smoke in peace, the manager is busting my balls, pardon my language...;- Fuck it then, screw your mother's cunt;...and then the lunch, damn it, with several speeches, and I am like going to brush my teeth in my underwear, fuck me...;- what is your problem you dicktwat, what do you want for cunt's sake...;- I don't give a shit about the battery...; we need to get serious and not do this crazy shit..., why should I be a motherfucking servant, why the fuck should I serve...screw hotels..., I don't give a fuck, suck cock...fuck off...;- we should fuck them, fuck them as hard as we can, but don't let them leave the hotel.*

Next day, the following content was broadcast at 10.00 AM:

- *I didn't sleep at all for cunt's sake. I don't know where's my motherfucking comb;*
- *Let me take this out for cunt's sake;...I don't give a fuck about cigarettes.*

Next day, the following content was broadcast between 19:00–20:00:

- *She is not a hooker, she is a sexual worker; – Do you have a dick?;- Come on, take your clothes off, I have a dick;*
- *Don't make me bring my husband to bang you. Your husband can't bang me. You should see that dick.*
- *You haven't seen his dick. You should get help, you self-conscious cunt. – Lick Ivona's punaani.*



Dialogue between two participants: *you would kill for one, but you don't have it... Is Zorica's vagina wide or narrow?; – There is no sugar for cunt's sake, that is my fucking problem.*

Next day, the following content was broadcast at 15:41:

- *to sleep and lift it up, motherfucker; fuck his mother's cunt...; fuck it then; motherfucking...fuck that...fuck Jesus...; what the fuck are you opening that door for... son of a bitch...dick...goddamn you...; I would fuck his mother...let her watch, who gives a shit...; he was a tall prick...go fuck yourself you motherfucker...; don't try to fuck me, you may need me someday...*

### **CRA action**

The analysis showed that the reality programme was regularly broadcast in daytime period when it was available to all audience categories. The programme content featured a frequent use of coarse swear words and extremely profane and vulgar expressions used individually or in dialogues between the participants. In addition, one of the topics that everyone was explicitly talking about, describing and commenting on was the sexual relationship between the two participants, including the footage of those people in bed underneath the blankets.

The CRA concluded that the programme content in question could not in any way be characterized as content appropriate for the wider audience, even though it was broadcast at a time available to the audience of all ages. The rules require that broadcasters must take all reasonable measures to protect children and minors from inadequate content, as vulnerable social categories, as well as that such content can be exclusively broadcast in certain time slots depending on age categorization. The provisions regarding the categorization and scheduling of the broadcast content are set in such a way that content falling under one of the age categories (12+, 16+ and 18+) may be shown only within a time slot suitable for that category, so that the audience is given information on what content to expect. The programme content in question, as the analysis showed, included frequent use of the coarsest profanities, which according to Article 21 paragraph (7) of the Code belongs to category 18+ and may be shown only between 24:00 – 06:00 hours. By broadcasting the above content, the broadcaster has failed to comply with the basic principles in terms of scheduling and labelling of content that is likely to impair the physical, psychological or moral development of minors, and which is shown without technical protection.

It was also found that OBN failed to ensure the generally accepted standards of decency, and that by broadcasting this programme, the station failed to classify and apply watershed rules, as stipulated by the relevant rules. Finally, CRA concluded that the aforementioned broadcast could be harmful to minors, considering that minors are a special protected category of audience and that each broadcast content is to be viewed in terms of possible harmful effects on minors, taking into account the context and type of programme. In this case, the CRA took into consideration the fact that it was a non-fiction programme, in which an impression is created that it represents real-life events, and which can therefore potentially have a more harmful effect on minors than fiction where a deflection from reality exists. More-

over, broadcasting of controversial scenes in daytime period guarantees a greater exposure of minors to this type of content. Considering this, CRA concluded that there has been a violation of relevant rules and issued a financial fine of 5 500 EUR.

#### **8) TV BN, 2016, content that might seriously impair the physical, mental or moral development of minors**

CRA, initiated by a complaint, requested the recordings of programme “Balkan cheats”, broadcast on TV BN around 14:00 hrs.

Analysis showed broadcasting of series “Balkan cheats”, with the total duration of 52 min, and with 14+ classification marked throughout the broadcast. In this episode, Balkan cheats crew followed a certain Adam Sedlar and investigated his activities, during which this person is portrayed in scenes of masturbation, explicit sexual telephone conversation, followed by playing of recordings of his sexual intercourse with a 16-year old minor, during which he “coaches” on ways how to seduce and engage in sexual intercourse with potential partners, and repeatedly engaging in some sort of ritual coupled with a number of incoherent sentences which are part of the ritual, with one of the scenes which depicts a sexual intercourse as part of the ritual, covered with visual mask.

Following scenes were broadcast:

1. Minute 10 – scene in which a man is masturbating, which is not depicted directly but is implied, during which he engages in phone sex, explicitly expresses himself in a very sexual manner.
2. Minute 20 – a scene in which sexual intercourse is showed, which is not characterized as pornographic, as there is no clear image, but the man engaged in sexual intercourse is very visible, during which the background conversation provides information on this intercourse being a sexual act of an adult with a 16-year old minor, additionally providing information on ways how to seduce and engage in sexual intercourse with potential partners.
3. Minute 45 – scene of sexual intercourse (visually masked), backed-up with a conversation related to sexual intercourse and nature of this sexual act.
4. Minutes 34. and 38. – rituals scenes, including incoherent speech, propagating problem-solving solutions with magic, occult forces and quackery, related to infertility

#### ***CRA action***

CRA determined that the programme in question could represent the content that might seriously impair the physical, mental or moral development of minors, which should not be broadcast. Considering the gravity of such breach, and for the purpose of full and thorough investigation of potential breach, CRA requested a formal opinion from a developmental psychologist<sup>39</sup> in relation to a potential influence on such programme on minors.

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39 Doc. dr Ivana Zečević, PhD of psychological sciences, University of Banja Luka.

In relation to scenes broadcast in minutes 10., 20. and 45., the following expert opinion is provided:

*“Such content can potentially be harmful to minors as viewers, who have no sexual experience, as it can initiate fantasizing which is in no correlation with reality. It can also be stimulating, especially in the adolescent age, when minors have intensified desire for sexual experience, and desire to copy television scenes in real life. Premature sexual activity, as one form of risky behaviour, in combination with reckless exposure to unwanted pregnancy, can also result in reproductive health disorder with long-term consequences related to health and reproductive potential of an individual. For that reason, it is necessary to, as much as possible, protect children from content which depicts sexual intercourse, not only pornographic, but those which imply sexual intercourse, as every implication of sexual intercourse can arouse curiosity and a desire to experiment.”*

In relation to scenes broadcast in minute 38., the following expert opinion is provided:

*“...scene in which a ritual is shown, which stipulates quackery, as a problem-solving method for infertility, full of incoherent sentences, reminiscent of sentences often used with persons with psychological problems. Although this scene includes condemning statement from the anchor, he still finishes his statement in a rather depressing tone, finishing off with a message that can be interpreted in a manner which stipulates that to fight in life is not the way to go, but is best to give up. This statement is not problematic in itself, but the entire concept of this scene is, as well as the time of this broadcast, the afternoon period. To offer such conclusions to adolescents means to portray a life in which, if everything runs ok, they should be happy, but if it does not, they should give up and not fight. With adolescents, who are prone to depression or depressive reactions, this directly discourages them to seek help, but to give it all up. Scenes which propagate quackery, like this one, are undesirable, especially in our society, most notably rural areas, which still hold strong belief in quackery. This content feeds into this belief system even deeper, and offers a primitive concept, characteristic of primitive communities to minors.”*

Finally, expert opinion in relation to the entire programme:

*“This programme offers content which can harm the development of children and adolescents. Although it carries the classification mark 14+, it was broadcast in prime-time for this population, when there is a possibility of reduced parental control over the content the children are watching. Propagation of paedophilia is the most critical part of this programme and for that reason, this programme should be banned for broadcasting”.*

According to CRA determination, and expert opinion of a developmental psychologist, it is clear that broadcasting of this content represents a serious omission on the part of TV BN to protect viewers from content which is not in accordance with the basic ethical and moral principles of wider society. The primary role of the media includes service to the viewers, providing content which they can use or the purpose of information, education and entertainment. By broadcasting the programme in question, not only did TV BN fail to act in the best interest of viewers, but seri-

ously jeopardized the physical, mental or moral development of minors, as the most vulnerable category of viewers. Also, broadcasting of this content under the classification mark that does not exist in relevant rules, and in the time period which is most likely to include the youngest generations before TV sets, represents an additional breach of rules. Considering everything, it has been determined that TV BN violated the provision on scheduling and categorising of content for the purpose of protecting minors, and was issued a financial penalty of 2,500 EUR.

## **CROATIA:**

### **9) Channel Ri, 2015, broadcasting without content label**

Based on citizens' complaints, it was established that the movie *Employee of the Month* was broadcast during the day from 16:32 until 18:06 without content label and that it was abundant in violent and vulgar scenes and expressions which are likely to impair the physical, mental or moral development of minors. The broadcaster was obligated to assign a suitable content label to the movie which was to be visible during the whole movie.

#### ***AEM action***

Warning. The Council for Electronic Media established that in the course of showing the movie *Employee of the Month* the broadcaster did not use a prescribed visual label in accordance with the provision of Article 26 paragraph 3 of the Law on Electronic Media and provisions of Articles 8 and 9 of the Rulebook on the protection of minors in electronic media. The movie is abundant in scenes showing sex simulations, inappropriate discourse with vulgar expressions, shooting, murders and dead bodies.

### **10) RTL Television, 2015, encouraging, promoting and glorifying alcohol consumption**

During the supervision of the broadcaster's programme, it was established that some episodes of the Big Brother show broadcast on 06 and 08 September 2015 – from 14:32 until 14:41 and from 21:01 until 21:05 contained scenes that might impair the mental, moral, physical, cognitive, emotional and social development of minors. This primarily referred to the scenes showing excessive alcohol consumption, risky sexual conduct and sexual abuse/intercourse under the influence of alcohol. These episodes should have been assigned a higher content label and as such should have been broadcast later during the day. In fact, the beginning of broadcasting of the new season of this reality show attracted huge attention of the Croatian public, primarily because of excessive tenants who entered the house, and also because of sex between candidates under the influence of alcohol. The Agency received a total of 16 complaints from citizens against broadcasting "unsuitable content" in the Big Brother show.

#### ***AEM action***

Misdemeanour order imposing fine in the amount of KN 100 000 on a legal person and KN 10 000 on a responsible person. The Council for Electronic Media established breach of rules laid down in Article 26 paragraph 1 indent 3 and paragraph 3 of the Law on Electronic Media and violation of the provisions of Article 2 of the Rulebook on the protection of minors. Given that the show was not documentary content which highlighted the problem of excessive alcohol consumption, but a reality show, the Council expressed the view that the classification of the shows was not suitable. Moreover, in these same shows the participants planned to get

further drunk and discussed how alcohol should be consumed, while show participant Steffani bragged about the quantity of vodka she had: *Ervin asks Stefani if she is drinking tonight, to which she responds affirmatively, emphasising she will stick to the beer. She asks Ervin if he is going to drink, to which he responds "I will, I always do", to which Steffani says: "Me too, it helps me fall asleep faster."* Scenes that were broadcast on 06 September 2015 show sexual intercourse, and even though they do not fall within the category of pornography, these scenes might be potentially harmful to the children who have no sexual experience. (*Steffani is trying to get out of the bed in which she was with Ervin, but she is too drunk to do it on her own, so he helps her out. Luka is watching what is happening in bed between Ervin and Steffani and comments: "Do it up her ass a little, so that the time I spent watching is not wasted."*) The Council stated in its decision that sexual intercourse under the influence of alcohol, after which one of the show participants could not remember it, constituted a pattern and promotion of risky sexual conduct which may have a harmful impact on the mental, physical, moral, cognitive, emotional and social development of minors because such conduct was portrayed in the show in the context of socially acceptable and desirable behaviour. In deciding on this case, the Council also took into account the fact that the time slot of broadcasting controversial scenes – weekend evening and working day in the afternoon – was the time slot which indicates a greater exposure of minors to such kind of content.

### **11) Croatian Radio-Television HTV2, 2016, violence, inappropriate content label**

On 8 May 2016, from 11:56 until 12:22, the show *Teenozoik* broadcast an interview between two minor video bloggers. In the second part of the interview, bloggers take up the so-called “kill, kiss, marry” challenge in which the interviewed minor must decide which of his fellow bloggers he would kill, kiss or marry. Popular internet joking does not work well in this context, creating an impression that the show relativises violence since the young man decides whom he would kill without any second thought. Even though the show carried label 12 and was not intended for younger minors, the broadcast programme might have had a harmful impact on older minors since the challenge mentioned above made a public display of dislike, animosity and aggression towards persons we either know or do not know as socially acceptable. Moreover, the show was not preceded by an acoustic warning. Anonymous viewer sent a complaint about this show.

#### ***AEM action***

Warning. Article 26 paragraph 1 of the Law on Electronic Media prescribes that any form of encouraging, promoting and glorifying violence in audio-visual or radio programmes is prohibited. Article 9 paragraph 1 of the Rulebook on the protection of minors in electronic media prescribes that the provider of electronic service is obligated to ensure that programmes that are not suitable for persons under the age of 12 are preceded by the acoustic warning: “The following content is not suitable for persons under the age of 12.” The Council specified in its decision that the arguments presented by the publisher stating that it was just a “game” were not entirely acceptable since the show was primarily intended for minors. Even though the show

was marked with the visual content label, it lacked an acoustic warning which also had to be broadcast.

## 12) RTL Television, 2018, broadcasting without content label

Citizens made complaints against the reality show *Ljubav je na selu* (*Love is in the Countryside*) which was broadcast on RTL Television because it takes advantage of people with disabilities and shows inappropriate content without a warning. It was shown on 10, 11 and 16 March 2018 from 20:00 to 21:10 and with reruns from 16:00 to 17:30. In the episode in which farmers meet interested girls, one of the candidates expressed dissatisfaction at the age of the girl who applied to come to his farm. Even though the host tried to mitigate the feeling of unease, he insisted that “younger is sweeter” (V.T.: *Obviously, you always return a faulty commodity. You return it, and take another one. Well, I think that is why I choose younger, sweeter and more fertile.*). Even though this is a reality show, this programme was broadcast without any classification label. Formats such as *Love is in the Countryside* in which several women “fight” for one man are abundant in sexist and discriminatory language. Even though some of these statements were meant to be jokes, they still have to be categorised as prescribed in the Recommendations on child protection and safe use of electronic media, “*because in principle children cannot understand irony and sarcasm until they are about nine years of age, and some of them understand them even later*”. Even though these shows do not depict candidates and competitors drinking, effects of excessive alcohol consumption are evident. The complainant raised the greatest concern over candidates with intellectual disabilities participating in the show and saw such move of the RTL as inappropriate. One of the female participants was a ward at the Centre for Inclusion in Šibenik and the Ombudsman for People with Disabilities has already expressed its view regarding her participation stating that “people with disabilities are entitled to select and choose among opportunities that are also at disposal to people without disabilities”, but the rules of participation and potential consequences must be explained to them in a way they understand.

### *AEM action*

Warning. The Council established that the prescribed visual label was not used during broadcast of the show *Love is in the Countryside* in accordance with Article 26 paragraph 3 of the Law on Electronic Media and Articles 8 and 9 of the Rulebook on the protection of minors in electronic media, even though the show featured scenes that could likely impair the physical, mental and moral development of minors due to sexist and discriminatory language and scenes showing excessive alcohol consumption.

## KOSOVO\*:

Most recurring violations relate to the restrictions and general obligations of audio-visual media services such as: no acoustic or textual warning before the start and after each interruption of programmes with harmful content to children and minors, broadcasting programmes of specific categories out of the specified watershed, failure to use respective visual symbols and the use of colors of respective warnings/symbols different from those specified in the Regulation IMC-2013/01:

- TV MOST, 2017, Article 6, paragraphs 2 and 3
- TV MIR, 2017, Article 6, paragraphs 2 and 3 and Article 7.1
- RTK 2, 2017, Article 7.1
- TV 21, 2017, Article 6.2 and 7.3
- RROKUM TV, 2017, Article 7, paragraphs 1, 2 and 3 and Article 3.1
- KTV, 2017, Article 7.1 and 3
- TV PRIZRENI, 2017, Article 3.3, 5.2 and 5.3
- KTV, 2018, Article 7.1 and 7.2
- TV VALI, 2018, Article 7.1 and 7.2
- TV PULS, 2018, Article 7.1 and 7.2
- TV MIR, 2018, Article 6.3 and 7.1
- TV PRIZRENI, 2018, Article 3.3 and Article 7.1 and 7.2
- TV SYRI VISION, 2018, Article 3.3, Article 5.2 and 5.3 and Article 6.4
- RROKUM TV, 2018, Article 7.3, Article 6.4
- TRIBUNA CHANNEL, 2018, Article 7.3 and Article 6.3



## **MONTENEGRO:**

### **13) TV MBC, 2006, scheduling of content**

By analysing the broadcasted program, *ex officio*, on 29 March 2006, AEM noted broadcasting of the show “Game Zone” in the program of TV MBC, which contains scenes of violence and explicit sex.

“Game Zone” is the content on gaming and video games in the market, which was generally aimed at younger people. The shows, in most cases, consisted of gameplay inserts and video game trailers that were presented.

The subject-matter show was broadcasted at 12:19am. The content is referred to as “hot simulation for late hours” with the explanation of the announcer that the goal of the game is “to be immoral.” During the show, video games are presented that show, using realistic design and graphics, events in the virtual world involving explicit sex with virtual characters.

### ***AEM action***

When making the decision, AEM took into account that in the concrete case there is content that often shows scenes (albeit virtual), of unnecessary violence in various forms, or scenes that may create among minors the impression of approving, promoting or glorifying violence. Also, AEM took into account that the scenes of sex shown can have negative effects on minors in terms of a correct understanding of intimate life and making a distinction in relation to pornography. AEM noted that the situations in which there is sexual intercourse among virtual characters do not reflect real life situations, but similar to pornographic content, aim to provoke sexual arousal.

Bearing in mind the broadcasting time, the broadcaster did not abide by obligations related to the broadcasting of content that could jeopardise the moral, mental, intellectual, emotional and social development of minors. Also, it was determined that the broadcaster did not approach the subject (video game with sex scenes) in an analytical manner in order to shed light on a social phenomenon and raise awareness primarily for parents, but also for young people about the aforementioned, but that the scenes are presented rather in a sensational manner.

After the completed procedure and with all relevant facts considered, it was decided that the broadcaster violated the provisions of the Media Act (Article 3) and the Decision on Minimum Programme Standards in the Republic of Montenegro<sup>40</sup> (Articles 3, 4 and 5) by broadcasting out of watershed the content that can jeopardise the moral, mental, intellectual, emotional and social development of minors. The broadcaster was issued a warning.

### **14) TV MBC, 2011, scheduling of content**

By analysing the broadcasted program, *ex officio*, the Agency for Electronic Media, in the period from 16 to 20 September 2011 recorded broadcasts outside the watershed of programme content of the following formats:

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<sup>40</sup> Regulation in force from May 2005 to July 2011

Format 1: In the upper right corner of the screen, the graphic insertions are displayed with the photos of naked females, their names and personal messages. The explicitness of the photos and the content of the messages constitute elements that can classify such content as the advertising of hotline services (broadcasted from 6 am to 8 am).

Format 2: Chyron with SMS chat at the bottom of the screen and a posted message “Send SMS to number 14660” (broadcast from 6 pm to 8 pm and 9 pm to 10 pm).

Format 3: Telop with static images showing photos of provocatively dressed females, their phone numbers and personal messages, such as: “SEKICA: Crazy, positive, easy going and I will never calm down. Dude, if you are as foolish as I am, call me “(broadcast from 8 pm to 9:30 pm).

Format 4: Chyron with SMS chat during which the photos and names of females are played, as well as the location from where their short messages are, and the screen reads “BLM-nickname to number 14644” (broadcasted from 11 pm to midnight).

Format 5: Show “Live Astrology”, a contact programme with the participation of the audience, or paid participation of the audience (calls paid by viewers) in which people present problems from their private life, and astrologers give them advice on how to resolve them in the form of interpretations, predictions, etc. (broadcast from 1 pm to 2 pm, and from 10 pm to midnight).

Format 6: Show “Astronom caffè” was designed in the same way as the show in format 5, with different people appearing in the role of “interpreters” (broadcasted from 3 pm to 6 pm).

Format 7: Show “Astro Vision with Gorica Jankovic”, which is also based on the involvement of viewers and the interpretation of the horoscope (broadcast from noon to 2 pm).

### ***AEM action***

Through the analysis of the broadcast content, it was established that it was not in line with the Law on Electronic Media, the Rulebook on Programme Standards in Electronic Media, as well as the Rulebook on Commercial Audiovisual Communications that stipulate that programme content that may endanger the moral, mental, intellectual, emotional and social development of minors must be broadcast within the watershed (from 00:00 to 06 am). In the written statement, TV MBC confirmed that because of employee error, the controversial programme content was broadcast in the morning, outside the watershed, and announced that disciplinary proceedings would be initiated against the responsible person. Furthermore, the broadcaster confirmed the broadcasting of content with SMS chat and interpretations of individual horoscopes with the participation of the audience, emphasising that programme content of similar format are broadcasted in programmes that are available through non-terrestrial pay-per-view platforms (KDS, MMDS, IPTV, DTH).

Following the submission of a written statement, the subsequent monitoring of the broadcasts by this broadcaster established that the factual situation is contrary to the said statement. Namely, the broadcaster continued broadcasting programme content contrary to the law, bylaws of the Agency and the issued authorisation. The broadcaster continued to violate the provisions of the law in a way that, outside the watershed, it broadcasts program content designed as contact programmes, with paid involvement of viewers, in which they presented problems from private life, and astrologers gave them advice on how to resolve them in the form of interpretation, predictions and the like (“Astrology Live”, “Astronom Cafe”, “Evening with the Stars” and “Astro Vision with Gorica Jankovic”).

After the completed procedure, and with all relevant facts considered, it was decided that the broadcaster violated the provisions of the Law on Electronic Media (Article 55), the Rulebook on Programme Standards in Electronic Media (Articles 19, 34, 36, 37 and 44) and the Rulebook on Commercial Audiovisual Communications (Article 28) which stipulate that the broadcasting and advertising of hot line services, SMS chat, future telling, interpretation of individual horoscopes and the like are prohibited outside the watershed, and issued a warning to the broadcaster, with the obligation to publish the imposed warning in the programme .

### **15) TV PRVA, 2013, labelling and scheduling of content**

The Agency for Electronic Media received a complaint from a viewer stating that on Wednesday, September 25, early in the evening, the broadcaster TV Prva broadcasted the movie “Clip” which *“abounds in scenes of explicit sex, juvenile violence, etc.”* and that *“there the sign 18 was not placed in the corner of the screen during the broadcast of the movie.”* Furthermore, the request points to the need for an urgent response *“bearing in mind that the replay of the mentioned film has been announced for Thursday, 26 September 2013 at 11:20 am”*.

Through monitoring the programme content of TV Prva, it was determined that on the mentioned date the movie “Clip” by Serbian director Maja Milos was broadcasted between 10 pm and midnight. The film won prestigious international prizes and awards. The movie “Clip” is a hyper-realistic presentation of the life of many teenagers today. The main character of the film is a teenager, Jasna, who comes to town from a smaller community. The teenager lives surrounded by the banality of the suburbs. Her father is severely ill and she is furious at everything and everyone, including herself. She is in love with the boy she goes to school with, but she does not get what she wants from that relationship. She tries to forget the harsh everyday circumstances by experimenting with sex, drugs and nights out, all the time recording herself and people around her with a mobile phone. In this harsh environment, however, love and tenderness are born. At the beginning of the film, the warning “The program that follows is not suitable for viewers under 14 years of age” is posted. The film contains scenes of explicit sex, the use of unconventional language, and scenes of consumption of psychoactive substances.

### **AEM action**

TV Prva was requested to provide a written statement on the allegations contained in the objection. In the written statement, the broadcaster said that the film “Clip”

is a feature film with a contemporary theme that follows the lives of several teenagers who, losing the sense and searching for positive values, turn to vice, bad habits, premature sexual relations and similar behaviour. In the opinion of the broadcaster, the fact that *“some movie, Clip included, contains explicit scenes of sex does not mean that it is a pornographic or erotic movie as such. In the film Clip, scenes of sex and violence are not there as purpose by themselves, and they should not be viewed out of context – the scenes are shown in the context of the whole story that the film follows, they have their meaning in the story, the support the film tale, and appear as the consequence of the problematic life of the modern generation.”*

According to the broadcaster, the film points to *“a general, social problem of society, and aims to raise awareness primarily of parents and young people”*, and that *“minors were not involved in sex and nudity scenes.”* The broadcaster also pointed out that, aware of the different reactions of the audience after the broadcast (from gratitude to being very upset), it decided not to replay the film at all.

When making the decision, AEM took into account that in said case this was content that tackles, in an artistic, provocative and innovative way, very complex, yet important social topics, which are insufficiently or sporadically treated in the Montenegrin media.

Regardless of the artistic quality and the fact that the film does not represent promotion, but a critique of a time and society in which massive and persistent degeneration of fundamental values of human existence takes place, it is *“controversial material”* that causes divided reactions, which the broadcaster recognised, and based on that decided not to replay the film. With this, the broadcaster demonstrated openness and responsibility towards the audience’s views even before the AEM instigated the proceedings. In the statement provided, the broadcaster demonstrated the complexity of application of standards related to the right and interest of the media to contribute to the prevention and awareness-raising about social problems faced by young people on the one hand, as well as to protecting young people from content that could jeopardise their moral, mental, emotional or social development, on the other hand.

AEM took into consideration that the content shown can be intended for teenagers over the age of 14, especially considering that it relates to their generation, and that it has an educational character in relation to them, and that it represents a lesson pointing to the mistakes made by their peers. It has also been taken into account that there is a real danger that the media will begin to avoid such topics and turn even more to commercial and less *“risky”* content. In this context, a quick pronouncement of a restrictive or punitive measure against broadcasters, which are not sufficiently justified or necessary, may have a dissuasive effect on them to deal with complex (or controversial) phenomena or processes. After the procedure was conducted and with all relevant facts considered, AEM decided that the complaint should be rejected.

## **16) TV PRVA, 2016, labelling and scheduling of content**

The Agency for Electronic Media received a complaint from a viewer stating that the broadcaster TV Prva broadcasted on 10 March 2016 during the day the adver-

tisement (self-promotion) of the programme content titled “Serbian Mystery”, which is, as stated in the complaint, “terrifying even for adults, not to mention children”.

The series “Serbian Mystery” is a documentary-feature involving a series of fifty-minute episodes dedicated to various topics such as myths, legends and superstitions, from the distant and more recent past, which have some reflections in the present time and the existing population. It is content with the scenario prepared in advance and the selection of participants (actors, presenters, representatives of religious communities, as well as self-proclaimed “connoisseurs” of the problems of mystery and mysticism such as ufologists, White Witches, etc.). The content is unpretentious, with no visible ambition to use the public’s gullibility and ignorance to raise their level of interest.

Basically, the content could be a useful approach to understanding the origin and significance of various myths and legends whose roots are in the past and which have a certain cultural and folklore significance and belong to the anthropological and cultural heritage of a nation. The issues processed in this way could serve as an antipode to abuses of the same issues (occultism, witchcraft, and the like, which are often offered to gullible people in trouble as “effective” solutions to problems in life).

In the period before and immediately after the broadcast of the controversial content, episodes titled “The Dead”, “The Evil Tree”, “Urban Legends”, “In the Heart of Darkness”, “The Return of the White Lady” (January and February 2016, around 10 pm), as well as “Drekavac” and “Muslim magic” (in March, Thursdays after 11 pm). At the beginning of the broadcast of each episode there is a visual full-screen warning: “The following content is not suitable for persons under the age of 14” (at the time, in line with the Rulebook on Programme Standards in Electronic Media, the prescribed age codes were 12, 16 and 18).

The announcement of the show “Serbian Mystery”, which was the subject of this objection, refers to an episode entitled “Muslim Magic”, which was broadcast on Thursday, March 10, 2016. The announcement was played seven times during that day, in the period from 06:00 am to 09:00 pm. It was a self-promotional trailer of 44 seconds with sound and visual inserts of the scenes from the show that could have an intimidating effect on minors, bearing in mind that the scenes and phenomena shown exceed the limits of reasoning and understanding, particularly of minors. During the broadcast there was no graphic designation of the content being inappropriate for a specific age.

### ***AEM action***

In accordance with the competencies established by the Law on Electronic Media, TV Prva was requested to provide a written statement on the allegations contained in the objection. The broadcaster stated that immediately upon receipt of the request to provide a statement they reviewed the daily and weekly programme scheme, which envisaged broadcasting the episodes of the documentary series “Serbian Mysteries” and the episode “Muslim magic”, was broadcast on 10 March 2016 during the watershed, starting at 11:15 pm.

According to the broadcaster, the subject episode of the series “Serbian Mysteries” is a documentary show of “*high-quality production that explores the myths of local communities in the Balkans, encourages critical thinking and gives new images in the education of local communities.*” Since it is a “*documentary of exceptional quality*”, the broadcaster also made “*in line with its own standards*”, a video trailer that announces a new episode, which included the most interesting moments of the episode “*in line with high standards of creative video editing.*” The broadcaster said the series had four other premiere episodes, which, due to all precautionary measures, will be broadcast during the watershed and self-promotional videos will be taken out of the daytime advertising blocks.

In making its decision, AEM determined that when broadcasting the programme content announcements, the broadcaster failed to perform the categorisation of the programme content and put it into one of the three foreseen categories (12, 16 or 18) in accordance with the Rulebook on Programme Standards in Electronic Media. Also, AEM has determined that during broadcasting of the content the broadcaster used a label that was not prescribed by the Rulebook on Programme Standards in Electronic Media, thus failing to perform an adequate categorisation of the programme content, and failed to apply an adequate graphic label of the programme content category (12, 16 or 18).

After the conducted procedure and with all relevant facts considered, it was decided that the broadcaster violated the provisions of the Law on Electronic Media (Article 55) and the Rulebook on Programme Standards in Electronic Media (Articles 6, 22, 23, 23a and 27) which stipulate that special attention must be paid to the rules for scheduling programme content beyond the watershed in order to protect the moral, mental, intellectual, emotional and social development of minors and the broadcaster was issued a warning, with the obligation to publish the issued warning in the program of TV Prva.

## **NORTH MACEDONIA:**

### **17) TV Sitel, 2014–2015, wrong categorisation and inappropriate airtimes for the TV series “Sila”**

Pursuant to a complaint by a citizen (25.11.2014), the Agency for Audio and Audio-visual Media Services carried out an extraordinary monitoring of several episodes of the TV series “Sila” aired between 24 November and 1 December 2014.

With the monitoring, it was established that the TV station aired two episodes of the series a day during the workweek, one premiere and one rerun of the episode that was aired the previous day, and on Sundays a rerun of several episodes of the TV series was aired. In addition, contrary to the Law on Audio and Audiovisual Media Services and the Rulebook on the Protection of Minors the TV series was wrongly classified and marked as a first category programme – intended for the entire audience and it was aired in inappropriate times of the day.

Taking into consideration the fact that the psycho-physical violence in the TV series “Sila” is part of the scenario i.e. it is the motif which is systematically repeated both as the cause and the consequence in resolving complex gender/clan (tribal) relations between the characters, thus that motif is an unavoidable part of the storyline of each episode. Hence, the TV series “Sila” could not be broadcast under the category “acceptable for all ages”, but it should go with the symbol warning the parents/guardians that the series is not appropriate for children under the age of 12. According to the classification instructions from the Rulebook, the programmes classified with this category (the third one) should be broadcasted after 8 pm. In this case, apart from the inadequately applied signalisation, another problem was the airing of the reruns after 3 pm every working day and after 11 am on Sundays, while the premiere episodes were aired every day just after 8 pm.

#### ***AVMU action***

After the Agency, based on the extraordinary monitoring, established that the complaint by the citizen was founded, a measure of warning was imposed against the TV station in December 2014, and the complainant was informed about the findings from the monitoring.

In compliance with the Law, after the deadline established in the imposed measure for the adjustment expires, the Agency is obligated to perform further monitoring and to check whether the broadcaster responded to the imposed measure. Hence, between 16 and 19 January 2015 additional control monitoring was carried out and it was established that the TV station failed to act upon the imposed measure i.e. they continued airing the TV series “Sila” as a first category programme (for all ages) instead as a third category programme (12+) and before 8 pm. Bearing in mind that in accordance with Article 23 of the Law a misdemeanour procedure is initiated as the second measure only if violations are established in the current year, on the 23 January 2015 another written warning was issued against the broadcaster.

The control monitoring regarding this warning was carried out between 3 and 5 February 2015 which established once again that the broadcaster had not dealt with

the violation i.e. it failed to follow the regulator's instructions. Hence, the report proposed initiating a misdemeanour procedure before the competent court.

In compliance with the Law on Misdemeanours, before initiating a misdemeanour procedure the persons responsible at the media outlet were invited by the Agency for the purpose of conducting summary procedure for settlement. Since the settlement procedure was successfully completed, the legal entity (the broadcaster) paid a fine of 5 000 EUR in MKD countervalue and the person responsible for the legal entity's programme paid a fine of 500 EUR in MKD countervalue to the account of the Budget of the Republic of North Macedonia.

With the regular programme monitoring of the broadcaster between 15 and 19 February 2015 in compliance with the 2015 Annual Plan for Programme Monitoring, it was established once again that the broadcaster had not changed the categorisation and the airtimes of the Turkish TV series "Sila". Hence, the report once again proposed initiation of a misdemeanour procedure, and the media outlet was once again invited to the Agency for a summary settlement procedure. Since the settlement procedure was successfully completed, the legal entity (the broadcaster) paid a fine of 5 000 EUR in MKD countervalue and the person responsible for the legal entity's programme paid a fine of 500 EUR in MKD countervalue to the account of the Budget of the Republic of North Macedonia.

### **18) TV Kiss, 2014–2015, failure to mark programmes with symbols for protection of minors**

With the regular monitoring of TV Kiss, carried out in August 2014 following the Annual Plan for Programme Monitoring, it was established that it did not apply the warning signalisation for the protection of minors before and after the airing of a number of TV shows (films, series, animated films).

According to the Rulebook on the Protection of Minors it is mandatory to show it before the beginning and during the broadcasting of all TV shows as well as programmes with informative, educational or entertaining function that as a whole or in part could have a negative impact to the minors.

Before the beginning of the programme it is mandatory to show a warning signal that marks the category of the programme along with a visual symbol, textual, verbal and acoustic warning that lasts for at least 10 seconds and takes at least ¼ of the visible part of the screen. During the programme the visual symbol of the warning signal with dimensions of 1/32 should be in the corner of the visible part of the screen.

#### ***AVMU action***

In line with the Law the TV station was given a written warning as a measure against the violation established in August 2014. With the control monitoring in October 2014 carried out to check whether the rules regarding the protection of minors had been applied it was established that the TV station failed to act upon the warning and had not dealt with the violation i.e. it had not placed warning signalisation to protect minors when broadcasting films and TV series. Consequently, the report proposed a second legal measure to be imposed i.e. to initiate misdemeanour procedures before the competent court.



In compliance with the Law on Misdemeanours, before initiating a misdemeanour procedure the persons responsible at the media outlet were invited by the Agency for the purpose of conducting a summary procedure for settlement. Because the proceedings failed, in December 2014 a misdemeanour procedure was initiated.

The competent Tetovo Basic Court in April 2015 passed a verdict to the benefit of the Agency and fined the broadcaster – a fine of 5 000 EUR in MKD countervalue against the legal entity and a fine of 500 EUR in MKD countervalue against the person responsible for the legal entity's programme. The broadcaster appealed the verdict before the Gostivar Court of Appeal, which in November 2015 dismissed the broadcaster's appeal and confirmed the verdict of the Basic Court.

### **19) TV Sitel, 2015–2016, wrong categorisation and inappropriate airtimes for the TV series “The Black Rose”**

Pursuant to the complaint by a citizen (4.12.2015), the Agency for Audio and Audiovisual Media Services carried out an extraordinary monitoring of several episodes of the TV series “The Black Rose” aired between 1 and 7 December 2015.

With the monitoring it was established that the TV station aired two episodes of the series per day, one premiere and one rerun of the episode aired on the previous day that was contrary to the Law on Audio and Audiovisual Media Services and the Rulebook on the Protection of Minors; the TV series was misclassified and marked as a second category programme (8+) not recommended for children under the age of 8 and that, unlike the premiere, the rerun was aired at an inappropriate time of the day (between 2 and 4 pm).

Due to the frequent and lasting scenes and sequences (consecutive, dramaturgically developed images and scenes) of explicitly shown verbal and psycho-physical violence, consequences from violence, inhumanity and abuse of people, the episodes from this TV series should have been classified as a third category programme (12+), which was not recommended for children under the age of 12 and parental/guardian supervision was recommended meaning it could be aired only between 8 pm and 5 am.

#### ***AVMU action***

After the Agency, based on monitoring, established that the complaint by the citizen was founded in which he rightly pointed out that the time when the rerun of the TV series was aired was inappropriate because it made it possible for younger audience to watch the TV series without the preventive presence of a parent or a guardian, the broadcaster was informed about the complaint and about the findings from the monitoring demanding for the programme's airtime to be adjusted to the requirements in the Law and the bylaw. A meeting was held with the broadcaster at which the findings from the monitoring were discussed and the TV station requested some time to adapt the programme timetable.

After the regular monitoring performed in February 2016 in line with the 2016 Programme Monitoring Plan (which is publicly available on the website of the regulator), the Agency established that the broadcaster still had the TV series “The Black Rose” misclassified and the rerun was aired at an inappropriate time of the day i.e.

the broadcaster failed to act upon the request by the Agency. Hence, a measure consisting of a written warning was imposed in which they were given a 30-day notice from the day of receiving the decision about the measure to respond.

During the control monitoring conducted after the deadline in May 2016 the Agency once again came to the same conclusion that there were no changes in regard to the categorisation and the airtime of the TV series i.e. that the broadcaster failed to act upon the imposed measure of warning. Hence, in line with the Law in the report from the monitoring it was requested for the Agency's Director to initiate a misdemeanour procedure before the competent court against the broadcaster and the person responsible.

In compliance with the Law on Misdemeanours, before initiating a misdemeanour procedure, officials representing the broadcaster were invited to the Agency for the purpose of conducting a summary procedure for settlement. If the broadcaster accepts the settlement procedure the legal entity and the responsible natural person pay half of the due fines as provisioned in the Law for the specific violation to the account of the Budget of the Republic of North Macedonia and with that the procedure is completed and the case does not reach the court. Since the settlement procedure was successfully completed, the legal entity (the broadcaster) paid a fine of 5 000 EUR in MKD countervalue and the person responsible for the legal entity's programme paid a fine of 500 EUR in MKD countervalue.

## **SERBIA:**

### **20) TV Pink, 2014, topic of sexual intercourse with a minor in the morning programme**

In the Morning Programme, TV Pink broadcast content that violated the human rights and dignity of participants in the programme, as well as the content that could harm minors. On 27 November in the slot from 9:41 to 10:07 within the Morning Programme, TV Pink dealt with the topic of child abuse and broadcast a telephone conversation with a mother whose name, last name, photograph and place of residence were disclosed and who accused her ex-husband (divorce case was pending) that he had a sexual intercourse with their three-and-a-half-year-old daughter. In the live programme the mother answered the journalist's questions that were suggestive to an extent (... *Do you claim that your daughter was raped?... do you still claim that your daughter is afraid of her father?* The mother claimed that her child said "... *please, when daddy comes do not give me, hide me....*). The mother described in detail how she started having suspicions that her child was abused. She said that she took the child to the Institute for Mental Health where the girl repeated what she said. After that the procedure against the father was started.

#### **REM action**

The regulator imposed a reprimand on TV Pink because it violated Article 50 paragraph 1 of the Electronic Media Act and the Code of Conduct of Broadcasters<sup>41</sup> – section 3, as well as Article 20 of the Rulebook on protection of human rights in provision of media services.

Establishing the facts, the Council concluded that the station published the data that made disclosure of the identity of the minors that were mentioned in the programme easily possible, practically with absolute certainty. The programme dealt with the topic of child abuse, and revealing their identities violated their basic human rights, namely the right to respect of personality and dignity of child and right to privacy. Explicit allegations and detailed descriptions of the alleged information that the mother of the child gave about the injuries that her daughter had suffered (the child's name Mila was also disclosed), about the mechanism of inflicting the injuries and the person that inflicted the injuries (father Igor) and describing the very specific actions done to inflict the injuries on the genital parts of the body of the child constitute gross violations of the rules of conduct that are regulated in the Electronic Media Act and the Code of Conduct of Broadcasters. The Independent Association of Journalists of Serbia lodged a complaint to REM against the media services provider, and the strong negative opinion and judgment of the experts was also taken into account when the measure was imposed.

### **21) Prva TV, 2014, movies with the label 16 broadcast in daytime**

In the period from 5 to 8 September 2014 TV Prva broadcast certain content not appropriate for persons under 16, in the time slots that, according to the law, are

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41 At the time when the measure was imposed the current General Binding Instruction for the conduct of broadcasters, section 3 read – Broadcasters shall undertake all the precaution measures to protect minors from the content that can harm their integrity and their health, moral, intellectual and social development.

prohibited for such broadcasting. In the slots from 6 am to 10 pm they broadcast six movies that were labelled as inappropriate for persons under 16. They contained scenes of violence, murders, arms and nudity. The film *Kiss, Kiss, Bang, Bang* was broadcast on 5 September in the slot from 11:10:30 to 12:59:49. The film *Mission* was broadcast on 6 September at 06:18:19, film *Demolition Man* was on the programme on 7 September in the slot from 08:56:21 to 11:00:29. On the same day the film *Exit Wounds* was broadcast in the slot from 11:00:57 to 12:59:51, while at 21:44:40 TV Prva broadcast the movie *Pride and Glory*. The same film was broadcast again the day after in the slot from 10:41:47 to 12:59:42.

### **REM action**

The REM Council imposed a reprimand on TV Prva because they violated Article 68, paragraph 6 of the Electronic Media Act. The broadcaster categorised the films as inappropriate for persons under 16. On that basis, the broadcaster had the obligation to broadcast the films in the slots that were permitted according to the law – between 10 pm and 6 am (Article 68.6 of the Electronic Media Act).

The Council concluded that this was not an intentional broadcast of the content outside of the slot permitted by the law, but the violation of the obligation due to insufficient care of the broadcaster. The Council took into account that by that date the station was not under any of the measures provided for in Article 28 paragraphs 1 – 3 of the Electronic Media Act.

### **22) Happy TV, 2014, vulgarities and disgust with the label 16 broadcast in the daytime**

In the show *Luda kuća (Madhouse)* on 21, 22 and 24 October 2014 in the slot between 6 am and 10 pm, labelled as inappropriate for persons under 16, TV Happy broadcast content in which the presenter and guests used vulgar expressions, indecent allusions and bizarreness insulting human dignity and causing disgust and repugnance in the audience. The shows were broadcast in daytime in the following slots: from 14:15:05 to 15:16:20, from 14:15:06 to 15:22:44 and from 14:15:39 to 15:24:59. Representatives of the media services provider claimed that the show *Luda kuća (Madhouse)* exposed human nature, was designed as a parody of reality shows and that the audience was aware that all the events and characters that appear in the show were fictitious.

### **REM action**

The regulator imposed a reprimand on *National Happy TV*, because they broadcast content inappropriate for minors under 16 (show *Luda kuća*), thus violating Article 68.6 of the Electronic Media Act. Imposing this measure, the Council established that the broadcaster itself had categorised the disputed programme as inappropriate for minors under 16, and informed the public thereof by putting the label 16 on the programme. Although the impugned programme was a rerun (because the original show was broadcast after 10 pm), it was broadcast outside of the period permitted by the law (content inappropriate for minors are not permitted before 10 pm and after 6 am).

### 23) TV Happy, 2015, violence in the morning programme

In the reality show *Parovi (Couples)* HAPPY TV broadcast content disputable from the point of view of compliance with the legislation related to protection of minors. On 11 October 2015 in the morning hours they broadcast the content that contained violence, indecent behaviour and expressions used as an act of aggression, i.e. with a view to inflicting insults.

The REM carried out an extraordinary and enhanced supervision on 11 October in the morning hours. During that supervision they examined the content broadcast in the morning (the show was labelled as inappropriate for persons under 12) containing provocations and arguments of the participants in the reality show, after which one of the participants hit (slapped) another participant several times. During this part of the programme the audience could hear expletives, insults, threats (verbal violence). In the slot from 11:31 to 11:31 the audience could see slaps, pushing, grabbing the clothes of other participants, after which the broadcaster reacted by blurring the programme, but the show was not interrupted. Despite blurring and beeping several times, the audience could hear words that were recognizable as expletives.

#### **REM action**

The regulator issued a warning to HAPPY TV because they violated Article 50 paragraph 3; Article 68 paragraph 2; Article 68 paragraph 6 of the Electronic Media Act, as well as Article 17 paragraphs 1, 2 and 4 of the Rulebook on protection of minors in provision of media services.

The REM Council established that the above content was not to be broadcast at the time when it could be reasonably expected that children are in front of the TV (in the morning); that inappropriate content could have consequences for development of minors, that it had to be clearly labelled to prevent the possibility of identification of minors with violent persons who participate in reality shows; that in the situation when violence escalated the broadcaster was obliged to interrupt broadcasting immediately or to avoid broadcasting of such behaviour in any other way (muting the tone, changing the camera angle, etc.). The Council ordered the broadcaster to label the reality show *Couples* clearly as inappropriate for persons under 16 if the show contains offensive behaviour used as an act of aggression, and if it contains offensive language used as an act of aggression, i.e. inflicting insult, it should be labelled as inappropriate for persons under 18. It was also ordered that in case of escalation of violence, broadcasting of a reality programme is to be terminated immediately.

### 24) Happy TV, 2015, expletives, vulgar language and insults in daytime and early evening

In the reality show *Parovi (Couples)* HAPPY TV broadcast content that could harm the physical, moral or mental development of minors. In the period from 30 August to 9 September 2015, early in the morning and early in the evening, they broadcast content containing vulgar expressions, expletives and insults, and offensive gestures which were only occasionally (and clumsily) covered by high frequency tones or by blurring of images.

### **REM action**

The regulator issued a warning to National HAPPY TV because they violated the obligations defined in Article 50 paragraph 3 and Article 68 paragraphs 2 and 6 of the Electronic Media Act, as well as Article 17 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services.

The content contained expletives and was inadequately covered by the broadcaster's signal and it was the obligation of the broadcaster to broadcast such content at the time when it could be expected that the minors would not watch, given the ordinary schedule of their activities, as required by the Electronic Media Act (Article 50 paragraph 3 and Article 68 paragraph 2). The broadcaster was under the obligation to categorise such content as inappropriate for minors under 16 and to broadcast them in the slot between 10 pm and 6 am. In the situations where offensive language was used as an act of aggression, the broadcaster had the obligation to label such content as inappropriate for minors under 18 and to broadcast it after 11 pm. Imposing the warning, the REM Council expressed its opinion that there was a high level of responsibility on the broadcaster because they broadcast the disputable content repeatedly in the morning and during working hours, when it could be realistically assumed that minors could not be spending time with their parents.

### **25) Happy TV, 2015, temporary ban on broadcasting a show**

On 28 March 2015, within the reality show *Parovi (Couples)* HAPPY TV broadcast content that could impair the physical, moral or mental development of minors. In the slot from 14:51 to 21:13 the channel broadcast scenes of smoking and offensive behaviour that was not used as an act of aggression, as well as offensive behaviour used as an act of aggression.

On 29 March 2015, in the period from 21:25 to 21:54 HAPPY TV broadcast content that could harm the physical, moral or mental development of minors. It contained offensive behaviour that was not used as an act of aggression, and offensive behaviour used as an act of aggression, i.e. aimed at insulting. In doing so the broadcaster violated the above legislative provisions.

The content broadcast by the station during said days provoked fierce reactions from the public and the regulator received a large number of complaints that claimed that the reality show *Couples* offended the general interest.

### **REM action**

The regulator imposed a temporary ban on broadcasting the content on National HAPPY TV, for the duration of 24 hours, starting from 8 o'clock in the evening on 3 April 2015. The reason was the violation of the obligation defined in Article 50 paragraph 3 and Article 68 paragraphs 2 and 6 of the Electronic Media Act, as well as Article 17 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services.

Stating that the broadcaster was obliged to broadcast the content of the reality show outside of the time in which it could be accessible to minors, and to label it with categories 16 or 18, the Council imposed the measure particularly having in mind

that for two days the editorial team did not take note of a whole series of offensive expressions, discussions about sexuality, insults, denigrations, allusions, and insinuations without due professional care. Allegations of the editor that the technician used and played a wrong tape and that this particular content was supposed to be broadcast in the evening, which is why that particular technician was dismissed, illustrates a serious lack of care and as such was taken into account when the measure was imposed. The temporary ban on broadcasting the content applies to content of the same type regardless of the possible change of name, time of broadcasting and other circumstances significant for recognition of the content.

## **26) Happy TV, 2015, inappropriate content at an inappropriate time**

On 8 March 2015, during the reality show *Parovi (Couples)*, Happy TV broadcast content that was labelled as inappropriate for persons under 18. The content was broadcast between 6 am and 11 pm. In the period from 9 to 11 March the reality show *Couples* contained content that could harm the physical, moral or mental development of minors. It was broadcast at the time when minors could be expected to watch. The REM Service for supervision and analysis conducted an investigation into the television programme of the national HAPPY TV and composed several reports focusing on disputable parts of the programme: on 8 March, the station broadcast the reality show at 21:59 with the graphic label 18.

### **REM action**

The regulator issued a warning to HAPPY TV following a violation of the obligation provided for in Article 68 paragraph 6, Article 50 paragraph 3 and Article 68 paragraph 3 of the Electronic Media Act.

Assessing whether the content broadcast on 9, 10 and 11 March could harm minors, the REM Council particularly took into account the nature of the context that they were broadcast in. Since they are of non-fictional nature, reality shows can have a strong impact on minors, while in certain cases there is a possibility that minors could identify with the participants of the programme. According to the statement of the representatives of HAPPY TV, after the disputed content was broadcast ratings increased in the periods in which they were previously low – in the morning, and in the afternoon. This shows a clear intention of the broadcaster to increase ratings and acquire material benefit, consciously, in spite of legal restrictions. The Council particularly took into account the high level of frequency in repeating the actions that violated the law (as many as 22 times in the observed period), and the measure of reprimand that had already been issued (30 October 2014).

## **27) TV Pink, 2015, human rights violations**

Human rights were violated in the show *Farma 6 (Farm 6)*, particularly in relation to the dignity of participants. The show contained content that can impair the physical, moral or mental development of minors, due to the offensive behaviour that was presented in combination with offensive language used as an act of aggression, i.e. with a view to inflicting insults. The disputable content was broadcast on 2, 3, 4, 7, 9, 10 and 11 September 2015.

### **REM action**

The regulator reprimanded TV Pink, as they violated Article 50 paragraphs 1 and 3 and Article 68 paragraphs 2 and 6 of the Electronic Media Act, Article 17 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services and Article 20 of the Rulebook on protection of human rights in provision of media services.

In stating the reasons for the measure it imposed, the Council established that the show *Farma 6* is clearly a reality show and that therefore is subject to a separate legal regime regulated under Article 17 of the Rulebook on protection of minors in provision of media services. Under Article 20 of the Rulebook on protection of human rights in provision of media services, media service providers are obliged to provide services in a way which respects dignity of personality of the media services users, participants in the programme and persons that the broadcast information refer to. The show that was broadcast in daytime and that contained a number of fragments that could harm the physical, moral or mental development of minors, had to be broadcast in the time when it was reasonable to expect that the minors are not watching. Since the content was non-fictitious, they could have a strong impact on minors. While watching the programme, they are aware that persons and events are not imagined but real and in some situations there is a strong possibility of identifying with said persons.

### **28) TV Happy, 2016, insults and offensive language**

In the reality show *Snajke (The Brides)* of 25 October 2016, HAPPY TV broadcast the content that could impair physical, moral or mental development of a minor. In the slot from 16:03 to 19:34 they broadcast the content that included smoking and offensive language aimed at inflicting insults. On 27 October 2016, in the slot from 11:22 to 22:55, in the same show (reality *Snajke*) they broadcast the content that included smoking again which was followed by violence and offensive language used as an act of aggression and insult.

### **REM action**

The regulator issued a warning to HAPPY TV as there was a violation of Article 47 paragraph 1 item 4; Article 50 paragraph 3; Article 68 paragraph 2; and Article 68 paragraph 6 of the Electronic Media Act, as well as Article 17 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services. At the same time, a misdemeanour report was filed against the provider of media services as there was a violation of Article 50 and 68 of the Electronic Media Act (According to Article 111 of the Electronic Media Act, the regulator can initiate misdemeanour procedure after which the court can impose a fine on the media service provider in the amount of 500 000 to 1 000 000 Serbian dinars (dinars, RSD), or a fine of 10 000 to 500 000 dinars).

A statement of the reasons of the decision included the argument that several times on both days participants in the program used cigarettes and tobacco products; that the content were only occasionally labelled with the age label 12 or 16. Imposing the warning, the Council of REM took into account that the show *Snajke* was obviously



a reality show and that as such it was under a special legal status defined in Article 17 of the Rulebook on the protection of the rights of minors in provision of media services. That implied the obligation of the broadcaster to categorise reality shows in a more restrictive way than other programmes if they contain content not appropriate for minors. Given the nature of the content that was broadcast (participants smoking and using offensive language with a view to inflicting insults and as an act of aggression), the broadcaster was obliged to categorise the show as content inappropriate for minors under 18 and to broadcast it in the period from 11 pm to 6 am. In two days, in the period from 6 am to 11 pm, HAPPY TV broadcast content not appropriate for persons under 18, which indicates that they did not act with due professional care when they were editing the programme.

### **29) TV Pink, 2018, sex toys in the morning programme**

In the programme “New Morning” broadcast on 21 January 2018, in the slot 9:29 to 9:51, TV Pink broadcast the content that did not have an age label, involving the guests the stripper, Branka Black Rose, the sexologist Aleksandar Milošević and the psychiatrist Danijela Tiosavljević. The topic was the use of sex toys. During the programme, one of the guests demonstrated how the sex toys are used and invited guests to attend thematic evenings where, among other things, they would be able to see the dominatrix and use sex toys.

#### ***REM action***

The regulator issued a warning to TV Pink as they broadcast content that can harm physical, mental and moral development of a minor. In the morning programme the company, namely, broadcast content that, due to the context it was broadcast in, was not appropriate for minors under 12. In such a way TV Pink violated the obligations defined in Article 50 paragraph 3 of the Electronic Media Act, as well as Article 6 paragraph 1 and Article 8 paragraph 1 of the *Rulebook on protection of minors in provision of media services*.

## **2. CASES RELATED TO PROTECTION OF MINORS' DIGNITY, PRIVACY AND IDENTITY**

### **ALBANIA:**

#### **30) News24 television, 2016**

Without the approval of parents, a TV station broadcast live studio interview with 5 children (school pupils). During the interview, the children made complaints in relation to their teacher.

#### ***AMA action***

Attention Note for violating children's rights in news editions

#### **31) Klan television and Ora News television, 2016**

TV stations published sensitive information about a child in the city of Shkodra, in a programme titled "Free Zone" and information editions. The child was treated at the Residential Center and his letter was read during the programme, enabling the identification of the child.

#### ***AMA action***

Attention Note for violating children's rights

#### **32) Klan television, 2016**

The TV station broadcast a satirical programme called "Stop", with a news story where ethics and privacy were violated resulting in identification of a child.

#### ***AMA action***

Attention Note on Children's Rights violations

#### **33) News24 television and "Focus Media News", 2017**

During the programme called "Open Heart", the intimate relationships of a mother were described, stating, as explained by visual subtitles, who "commits shameful acts in the eyes of children". Amateur and ambiguous recordings, performed within a family environment, were used as an illustration.

#### ***AMA action***

Attention Note for violating children's rights for News24 television.

AMA, with the proposal of the Council of Complaints, imposed a sanction with a fine of ca. 800 EUR on "Focus Media News" for the same programme, after receiving a complaint.

#### **34) "Top Channel" and "Klan" televisions, 2018**

During the news, TV stations broadcast a story about two young sisters where sensitive information about them was published.

#### ***AMA action***

Attention Note for violations of minor rights in news editions.

## **BOSNIA AND HERZEGOVINA:**

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### **35) BHT 1, 2013, violation of children's rights**

CRA received a complaint from the Mostar Social services in relation to the programme titled “In the name of the people”, broadcast by BHT1. The complaint stated that the programme in question violated the rights of children and that the work of their centre and its employees was diminished. Additionally, CRA received a complaint from a viewer due to the potential violation of the rights of the children.

Analysis of the recordings submitted by the station established that a story was broadcast within the aforementioned programme, in relation to a decision of Mostar Social Service to terminate foster care for three minors by two women. During this story an indirect identification of the minors was made, by identifying their biological mother, while, later in the programme, their first names were revealed, followed by an interview with a school teacher, a full name of one of the minors is mentioned. Additionally, former foster care givers show pictures of the children, one of which is zoomed, and the images of the children are fully visible. In addition, in the section of the story dealing with the biological mother, one of the former foster care givers states that the fathers of children are unknown, and that their biological mother: “*engaged in shady business*”, implicitly questioning her moral values.

#### ***CRA action***

The rights and obligation of the media, in particular of Public Broadcasting Services is to inform citizens of all issues that are of public interest and thereby encourage democratic processes. The TV station's claim, stated in its letter to CRA in relation to alleged violation of rules, that the complaint from Mostar Social Service is a representation of pressure on their work was not founded, as the content of this programme was solely analysed from the perspective of a potential breach of relevant rules and regulations. Additionally, the fact that natural and legal persons, who might have been potentially put in undesirable position, had at their disposal the right of reply in accordance with relevant rules, was considered, determining that Mostar Social Service had been informed of this possibility.

What was disputable and led to the conclusion that relevant rules related to privacy were breached is the fact that the programme in question did identify and show pictures of a minor. This refers to breach of privacy and omission on the part of the station to ensure the protection of identity of minors, also considering that the moral values of their biological mother were negatively portrayed, which, in turn, can lead to jeopardising minors' dignity and well-being. Without disputing the choice of the topic presented, even positively regarding the intent of the station to present the potential irregularities in the work of public institutions, it is determined that this aim could have easily been achieved without the information relating to the identity of the minors. Avoidance of broadcast of information related to minors' identity would not diminish the gravity of subject and the value of the programme. CRA determined that broadcast of this programme violated provisions related to the protection of privacy and issued an oral warning to the station.

### 36) ATV, 2017, central news, reportage on minors beating a colleague from school

CRA received a complaint on a reportage broadcast during the ATV central news on October 18, 2017. The complaint was submitted by a mother of an assaulted minor, that the rights of a minor have been breached and that false information was provided in respect of the mother's cooperation with the local police regarding this case.

Analyses of the recordings of this programme, which were delivered upon request from CRA, determined that the reportage had been broadcast, which referred to a case of violence among minors, involving four 14-year old teenage girls who physically attacked their peer. A statement from press officer of local Banja Luka police was broadcast in respect of legal norms and based on which this case will be processed, together with the statement of a psychologist in relation to bullying and peer violence in general. During this broadcast, there were 4 depictions of 2 scenes of violence in the duration of 18 seconds, from which the identity of participants could not be determined, there was no mention of any names or their relatives nor was there any other information which could lead to identification of the minors involved.

#### *CRA action*

Analyses showed that ATV approached the subject based on principles of privacy protection, in accordance with relevant rules. As stipulated by the rules, every invasion into privacy must be justified with a proven public interest, including bullying and peer violence as a serious social phenomenon, discussed also from the perspective of psychology. The TV station stated, in their letter to the CRA that it has addressed the incident, which has widely been covered in all media, for the reasons of emphasising the problem of bullying and peer violence, in order to contribute to the efforts of its prevention. CRA determined that this TV station, while presenting this topic, limited reporting to details only for informative purposes, and that the issue has been coupled with information regarding a particular bullying incident only with a very legitimate public interest, with no violations of basic principles of protection of privacy. CRA did not find elements of breaches of relevant rules.

## **CROATIA:**

### **37) dubrovackidnevnik.rtl.hr (electronic publication), 2016, disclosure of identity of a minor**

The Agency for Electronic Media received an official letter from the Ombudsman for Children which raised concern over media publishing details and footage of enforcement procedures involving a minor in Župa Dubrovačka. The provider of the electronic publication revealed information in the text based on which it was possible to identify the child who was a party to the enforcement procedure. In addition to the article on the topic of enforcement, a photo gallery was published in which it was possible to recognise the house the minor lives in, while two YouTube postings were also published.

#### ***AEM action***

Warning. Upon performing analysis and receiving a statement from the publisher, the Council for Electronic Media concluded that Article 3 paragraphs 1, 2 and 3 of the Rulebook on the protection of minors were violated and issued a warning to the publisher. In fact, even though the article *VIDEO/PHOTO: DRAMA IN ŽUPA The Sixth Failed Enforcement Procedure involving a Minor* did not disclose the identity of the minor and his parents, publishing photographs and footage of the family house the minor lives in resulted in the publishing of other information that might have led to the recognition of the minor and jeopardise his well-being, as set out in Article 3 paragraph 1. Provision of Article 12 paragraph 3 of the Law on Electronic Media sets out a prohibition to publish any information revealing the identity of a child up to 18 years of age involved in cases of any type of violence, regardless of the child's status as witness, victim or perpetrator, or in cases of attempted suicide or suicide, where it is also prohibited to introduce any details of a child's family affairs and private life.

### **38) 24sata.hr (electronic publication), 2017, disclosure of identity of a minor**

A reader sent a complaint regarding articles published on the portal 24sata.hr under the headlines *A Girl Was Rescuing a Dog When Hit by a Car Driven by Drunk Veterinarian* and *Mahir's Mother: I Just Want the Truth, instead of Pity*. The article on the girl from Serbia who died in a car accident contained information taken from the portal Blic.rs, and their posting on the portal 24sata.hr constituted a violation of Article 12 paragraph 3 of the Law on Electronic Media and Article 3 paragraph 1 of the Rulebook on the protection of minors in electronic media. The article posted on the portal 24sata.hr mentioned the full name and family name of the girl killed. The article on the minor from Bosnia and Herzegovina who committed suicide because he had been a victim of peer violence and rape also constituted a violation of Article 12 paragraph 3 of the Law on Electronic Media and Article 3 paragraph 1 of the Rulebook on the protection of minors in electronic media. The article was taken from the portal Klix.ba, and in that article the mother of the minor speaks about the case and, in addition to identifying the minor, the details on abuse and rape are also revealed.

### *AEM action*

Warning. Upon receiving statement from the publisher, the Council stated in the decision on imposing a warning that even though it was true that the media in Serbia and Bosnia and Herzegovina were the first to disclose the identity of the children who were victims of violence, the fact still remained that provisions of the Law on Electronic Media did not apply to them, while they did apply to 24sata.d.o.o. In fact, 24sata d.o.o. was obligated, as are all providers of media services that fall within the competence of the Republic of Croatia, to report in accordance with valid legislation of the Republic of Croatia, in this case in accordance with Article 12 paragraph 3 of the Law on Electronic Media and Article 3 paragraph 1 of the Rulebook on the protection of minors in electronic media.

## **KOSOVO\*:**

### **39) TV DUKAGJINI, 2017, protection of identity and respecting the dignity of children and minors in programmes**

Violation of Article 4.3. of Regulation IMC-2013/01; IMC issued a violation notification.

## MONTENEGRO:

### 40) TVCG1, 2017, revealing the identity of a minor

When analysing the broadcasted programme, *ex officio*, AEM noted that on November 18, 2017 the public broadcaster “TVCG – Channel 1” broadcast within the prime time news, starting at 7:30 pm, information related to a call for help to a girl from Montenegro.

Background information: In November 2017, the attention of the Montenegrin public was caught by the case of a young girl whose request for help was posted by the humanitarian organisation “Food Bank” on its Facebook page. The request alleges that the lives of said girl and her brother were at risk, bearing in mind that they had no income and lived in difficult conditions with their ill father. After the initial efforts of various humanitarian organisations and the wider community to help the children, information emerged in the public sphere that the real life and financial circumstances of the said family were not as originally published, and that there are doubts in the truthfulness of the information provided. Full names and surnames of the persons involved were stated in the report. In order to protect the minors, AEM stated their initials in this review.

The report starts with the announcement by the lead journalist in prime time news: *“Centers for social work from Bijelo Polje and Mojkovac are paying particular attention to the situation in the family of V.M., whose minor daughter, requested humanitarian assistance through social networks. They claim that the documentation held by these institutions speaks contrary to the allegations that they have been forgotten and that they have been denied the right to social benefits”.*

The report continues with a voiceover: *“The scale of events that have attracted the attention of the public these days surely includes the story about the M. family. It all started with the call for help sent by the 14-year-old V.M. through social networks, emphasising the serious health problem of her father and the poverty she and her brother live in. In her letter, the girl wrote that her father is kept alive with the help of devices in a Belgrade hospital, while she and her brother are barely surviving, without electricity, water or food. The Centers for Social Work from Bijelo Polje and Mojkovac reacted and the story went into a totally different direction.”*

This part of the report is supported by screenshot of the articles from different web portals which include, inter alia, photos of the girl in question: *“A girl from Bijelo Polje urgently needs help – A.M. (14) from Bijelo Polje urgently needs assistance”*, as well as the text *“A. asks all of us to help: My father’s organs are failing, I am starving, I do not have the money for heating, I cannot even go to school”* (PHOTO), with the photo of the girl underneath. In the photos of the girl, the eyes are blurred.

After the video statement of the Director of the Centre for Social Work in the municipalities of Bijelo Polje and Mojkovac, the report continues with the voiceover: *“Montenegrin public is in doubt now; at first, it was willing to assist the underage children. Instead of the humanitarian action, the issue arises whether children were abused in this case?”.*



The report ends with the journalist's statement (standing up) in front of the building where the M. family lives and pointing to it during the report: *"The main actor of this story, V.M. lives in a building behind us in Mojkovac (pointing at the building), and did not agree to meet the RTCG team. In the telephone call he told us that the media have caused a lot of damage to him. As he said, the consequences for his health are huge, as people who were willing to financially support his medical treatment have given up on this intention. And this situation is unacceptable for V., his spouse, who abandoned him several years ago. She contacted the Centre for Social Work in Bijelo Polje, asking for help in obtaining guardianship over her children, which shows that the end of the story about M. is not even close"*.

The closing part of the report is supported with the previously described screenshot of articles from various portals where the name and surname, age and name of the town where the girl lives are stated.

### **AEM action**

In accordance with the competencies established by the Law on Electronic Media, the public broadcaster TVCG1 was requested to provide a written statement. In the statement delivered to the AEM by the Council of the Public Broadcaster, it was stated that the Commission for complaints submitted by listeners and viewers examined the above report and suggested to the Director of TVCG to establish better quality control in the editorial chain in order to avoid similar problems in the future.

The statement also includes an explanation by the editorial team of the news programme, according to which *"by broadcasting the report about the girl from Bijelo Polje, whose appeal for help set the social networks on fire, they wanted to point out the possibility of abuse of a minor"* and that *"in the illustration of the story they used clippings from newspapers and internet portals where the girl's photo and her name were published"* and that *"they protected/ blurred her image during the editing of the material"*. However, as stated, *"unfortunately, as it was later noted, in one of the images used, which was repeated (at the beginning and at the end of the report), her name and surname could be read,"* indicating that it was *"an unintentional mistake"*.

When making a decision, the AEM took into consideration that the Law on Electronic Media prohibited the disclosure of information revealing the identity of minors up to the age of 18 involved in cases of any form of violence, regardless of whether they are witnesses, victims or perpetrators, and the provision of details of family relations and the private life of a child. Also, the Rulebook on Programme Standards in Electronic Media prohibits the broadcasting of programme content that can obviously harm the physical, mental or moral development or well-being of minors or other vulnerable persons.

After conducting the procedure, and taking into account all relevant facts, it was decided that by broadcasting the described report with photographs of a fourteen-year-old girl and revealing the identity of minors, but also the circumstances of family and private life, the broadcaster could have harmed the mental development of the minor, thereby violating the provisions of the Law on Electronic Media (Article 48) and the Rulebook on Programme Standards in Electronic Media (Article 6).

On the basis of the aforementioned, a warning was issued to the public broadcaster with the obligation to publish that warning in its news.

## **NORTH MACEDONIA:**

### **41) TV station 24 Vesti, 2018, news reports on violence among minors at a primary school**

Based on an anonymous complaint in which the complainant accused the TV station of “unethical reporting” and of “elementary disrespect of journalistic standards” and thus of violation of the rights of the children due to showing a number of news reports about an incident that involved a fight between two schoolgirls in the yard of a primary school in Negotino, the Agency examined the news programmes of the TV station 24 Vesti from 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> of April 2018.

They established that:

- the TV station had covered the incident in continuity, and each day presented the reactions and the positions of various relevant parties (the First Children’s Embassy in the World “Megjashi”, the Ministry of the Interior and the Negotino Police Station, the Minister of Education Renata Treneska-Deskoska, the State Education Inspectorate, the Social Welfare Centre, the principle and the psychologist of the Municipal Primary School “Goce Delcev” and the Ombudsman);
- the reports did not present any sensational or unverified information;
- while running the news reports they used footage probably acquired from YouTube in which the faces of the involved students were blurred and their identities were not disclosed;
- the reporting was in compliance with the Rulebook on the Protection of Minors<sup>42</sup> adopted by the Agency’s Council in 2014, which established that when broadcasting acts of violence, TV stations should act in a responsible manner in an attempt to “strike balance between the right of the public to be informed timely and accurately and – the requirement to protect minors”.

### ***AVMU action***

The Agency decided that the complaint was unfounded and that TV Station 24 Vesti treated the issue of violence among minors at a primary school in a professional manner, performing one of the fundamental roles of journalism – to provide relevant information to the public about an issue of broader public interest – prevention of violence among minors without disclosing the identities of the schoolgirls. Both the complainant and the broadcaster were informed about the findings of the monitoring.

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42 Available at: [http://avmu.mk/wp-content/uploads/2017/06/Pravillnik\\_za\\_zastita\\_na\\_malloletnite\\_lica.pdf](http://avmu.mk/wp-content/uploads/2017/06/Pravillnik_za_zastita_na_malloletnite_lica.pdf)

## **SERBIA:**

### **42) TV Pink, 2014, harassing minors**

TV Pink violated human rights, and in particular the dignity of the participants in the reality shows DNK (DNA) broadcast on 11 February, 8 April, 22 April, 27 May and 2 September 2014.

In the transmission of 11 February 2014 they published the personal data of two minor boys, one being four and a half and the other nine years old. In the presence of the minor child the mother revealed the details (at points very obscure) of her marriage with and divorce from the father of her sons, Marko and Mladen. The boy was present for the entirety of the interview and the presenter of the transmission also asked him a number of general questions. She then explained that the method for taking the sample for analysis is not painful and with his mother's assistance she took the saliva sample. This was followed by the father expressing his opinion about his ex-wife, children, marriage, and his current partner with including data related to the private lives of these persons.

The presenter insisted on invading the privacy of the participants as much as possible. The transmission ended with the presentation of results proving Radovan Vojnić as the father of the child Marko. At that moment the older son Mladen (9 years old) was in shot and the presenter insisted he gave his comments about the situation. The final shot shows Marko sleeping.

The show broadcast on 8 April featured two minor girls (Jovanka and Katarina). In a wish to dispel rumours in their village that identified him as the father of the girls, their grandfather requested expert analysis of their DNA samples and that was done as part of the transmission. The minor girls were continuously involved in the case, statements given by the father and by the grandfather, and elaboration of reasons for their parents' divorce. Answering the questions of the presenter, the girls gave details from their family life. They also commented on their relation with their mother's current husband.

The show DNK (DNA) of 22 April featured Monika Mihajlović – a girl of six, whose mother wanted to establish that her former husband was not the father of the girl. The girl was present during the discussions about paternity.

In the show broadcast on 27 May the crew was establishing the paternity of a minor boy of 11 who was born of a man and his wife's sister. The boy was obviously distressed and embarrassed by the situation. He was occasionally present during the interviews, and in one part of the show it could be seen that he was visibly distressed and that he was crying. He cried again at the end of the show when the results were declared.

In the DNK (DNA) show broadcast on 2 September 2014 the crew went on to establish who the father of the minor child Milica was. She appeared several times in the programme and was present during some of the interviews. The interview with the mother of the child was made after the child was invited by the presenter and then moved to convince the mother to appear in the show. This was followed by a distressing argument between the mother and the presenter informing the mother that

the results arrived and that she knew what they showed. On the basis of the mother's attitude it could be assumed that the interview was conducted without her consent.

### **REM action**

In its meeting of 30 October 2014 the regulator issued a warning to the media services provider TV Pink because of the violation of the obligations stipulated in Article 50 of the Electronic Media Act and item 3.3 of the General Binding Instruction on the Conduct of Broadcasters.<sup>43</sup>

During the procedure, the representatives of the media services provider were asked by the Council if they were aware of the possible consequences for the minors arising from the actions described. The representatives stated that precisely because of that they were in contact with the Centres for Social Work and that in most cases family situations improved after the transmissions were broadcast. After seeing the relevant transmissions, the Council found that the concept was sensationalistic, that it insisted on disclosing the most intimate details of the family life of the participants and disturbed relations, which was on occasion bordering on the limits of socially acceptable conduct. Based on the above, the Council imposed the measure and ordered the provider to protect the identity of minors in the show DNK (DNA) and to move the time of broadcasting to after 11 pm.

### **43) TV Pink, 2015, establishing identity of minors' parents**

From May to July 2015 the content of the transmission DNK (DNA) repeatedly violated dignity of minors. The show was focused on the process of establishing the identity of minors' parents, while the dignity of minors who participated was not respected and information from private and family life of minors was published although said information could harm minors' interests and rights.

The first disputable show was broadcast on 19 May 2015 in the period from 9 to 10 pm. In that particular show a father requested expert opinion since he had doubts that he was not a biological father of his 10–12 year old son. The child's face was blurred, but when he was filmed from the side and from the back no technical interventions were undertaken. The names of the parents and the father's surname were disclosed.

In the show that was broadcast on 2 June 2015 in the slot from 9 to 10 pm the mother wanted to establish paternity for her child because she was in her second marriage, and she wanted to go back to her first husband for which she thought it would be helpful to establish that he was the biological father. The minor, a baby, appeared in the transmission, with a blurred face. The mother was clearly visible and her name (Aleksandra) was disclosed, as well as the building, the street and the town where the child lived with the mother.

On 7 July 2015 in the slot from 21:15 to 22:15 the transmission focused on the process of establishing the identity of the father of a child (a girl, 5 years old). The

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43 General Binding Instruction for the conduct of broadcasters, section 3.3 reads – A minor can appear in the programme only with his/her consent and the consent of the parent or guardian. Even in such situations the broadcaster shall pay particular attention to the protection of dignity and physical and mental health of the concerned person.

child's father was clearly shown– Miodrag Nikolić, as well as the mother whose face was blurred. The girl was filmed from the back at the moment when the presenter took a swab.

On 21 July 2015 in the slot from 21:45 to 22:45 the identity of the father of the boys of 6 and 7 was established. The father Zoran Vještica and the mother Maja were presented. The settlement was also disclosed as well as the neighbourhood where the children lived (house, garden). The boys refused to be filmed, but their father convinced them and brought them in front of the cameras. The names of the children were not disclosed, their faces were blurred, but clumsily, because at one point the face of the older boy could be seen.

### **REM action**

In the meeting held on 21 October 2015 the Regulator issued a warning to TV Pink for violation of Article 50 paragraph 1 of the Electronic Media Act, Article 22 paragraph 2, Article 24 paragraphs 1 and 2, Article 26 paragraph 3 and Article 28 paragraphs 1, 3 and 5 of the Rulebook on protection of minors in provision of media services.

TV Pink did not respect the dignity of minors involved in the broadcast. They did not adapt participation to age, maturity, or sensitivity of the topic that was discussed. The questions they were asked about sensitive family problems additionally exposed them to fear, shame, distress or rage. Information about whether the father or mother doubt as to who the biological father of their child is, falls within the intimate sphere of a person and can be published only with his/her consent. In the statement of reasons for the decision the Regulator specifically insisted on the fact that it was not sufficient to ensure only anonymity of the minor in the public sphere, but also in the direct neighbour that the minor lived in. In all broadcasts the identities of parents were not concealed, which in combination with other available data, could serve as the basis for revealing the identity of the minors. In one broadcast it was clear from the attitude of the minor that he did not want to participate in the programme. The explanation of the provider that it was a documentary was not accepted, since the broadcast had an entertainment format. According to the Council's opinion, the DNK (DNA) show is an entertainment programme with elements of a reality show. It could be confirmed by the way in which the presenter addressed the participants, and the way in which the family problems of the participants were presented, as well as by their communication of the results of analysis. Thus, in these shows, family conflicts were used to satisfy the curiosity of the audience and to provide entertainment.

#### **44) TV Happy, 2016, disrespect for minors' personality**

Dignity of a minor was not respected in the reality show *Matchmaker* broadcast on 9 February 2016 a an interview was broadcast involving a minor that was not appropriate for his age and maturity since during the interview he was asked questions about sensitive family topics. On 9 February 2016, in the slot 9:29:51 to 9:32:00 TV Happy broadcast interviewed a minor who was 3 or 4 years old whose father was single and the TV crew referred to finding him a wife. The TV presenter asked the boy about how he felt and about his attitude towards his mother who abandoned him.

## **REM action**

At its meeting held on 17 June 2016, the Regulator issued a warning to the National HAPPY TV due to violation of the provision of Article 50 paragraph 1 of the Electronic Media Act and Article 24 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services.

In addition to the measures imposed for the violation of the obligations related to protection of the rights and interests of minors, the Council of the Regulator particularly referred to the existence of the intention to increase the impression of family drama through the relevant content, without any consideration for the possible consequences. The questions that the child was asked referred only to sensitive family problems, i.e. to the fact that the mother abandoned the family. The fact that a minor is growing up without his mother can have a devastating effect on his emotional development. The questions that were asked thus touched the very sensitive sphere of family life, which harmed the child's dignity and did not take account of his grasp of reality and events around him, regardless of the fact that the father of the minor gave his consent to the child's participation in that particular programme. Thus, the nature of the broadcast content and published information led to the consequence of violating protected values of the minor, primarily dignity and free personality development, while the intention of broadcasting was to provoke sensation, which proves the irresponsible attitude of the editorial team and sufficient reason for the Regulator to impose the measure.

### **45) TV Pink, 2017, a minor as a direct participant in a family conflict**

On 30 November 2016 in the slot 22:04 to 23:20 TV Pink broadcast the show *DNK*<sup>44</sup> (DNA). The crew of the show was invited by a father who had doubts about his wife engaged in an extra-marital affair and wanted to establish if he was the biological father of his minor children. The producer of the programme visited the mother first. The mother and the children (eight minor children) lived with her new spouse. The producer of the programme talked to the mother, her new husband, his mother (the identities of the spouse and his mother were confirmed by their signatures), but also with the oldest girl from the mother's first marriage. The girl's face was blurred, but her voice was not distorted. In the interview the mother claimed that she had no doubts about who the father of her children was and that the only reason for the whole process of establishing paternity was that the father's unwillingness to pay for alimony. The producer then interviewed other children and they said that they watched the DNA programme regularly. The faces of the minor children were blurred but their voices were not distorted.

The producer of the programme then talked to the father and his seven-year-old son (his voice was not distorted but the face was blurred) who was a first grade student and the only child that remained living with the father. He confirmed that he witnessed scenes of domestic violence.

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44 The documentary reality show *DNK* (DNA), as its name suggests, deals with persons who have doubts in their own or their child's biological origin and want to analyse genetic material to identify biological parents. Participants of the program are real persons that the producers of the programme, as stated, help to find the truth. The producers claim that all stories are true and that they are recorded only at the initiative of the participants.

Deciding in this case, the Council of the Regulator for Electronic Media recalled that TV Pink did not take into account the need to protect the minors involved. Although their full names were not published (only the last name was mentioned) and although their faces could not be recognized (but their voice could be clearly heard) it was possible to establish the identity of the children on the basis of the participation of their mother and father in the programme, and on the basis of the place of residence. In this way they were harmed and their fundamental human rights, personal dignity, health, moral and social development were violated.

### ***REM action***

On 26 April 2017 the Regulator issued a reprimand to TV Pink for broadcasting content that indirectly revealed the identity of minors, thus impinging on their rights and their interests (content of the DNK (DNA) show) in violation of Article 50 paragraph 1 and Article 68 paragraph 11 of the Electronic Media Act, as well as Article 24 paragraphs 1 and 2 and Article 26 paragraph 3 of the Rulebook on the protection of minors in provision of media services. TV Pink did not comply with the obligation to protect private and family life envisaged in Article 28 paragraphs 1 and 3 of the Rulebook on protection of minors in provision of media services.

### 3. CASES RELATED TO REPORTING ON CRIMINAL ACTS INVOLVING MINORS

#### ALBANIA:

#### 46) Ora News television and ABC News television, 2016

During news broadcasts, TV stations broadcast sensitive details about a child suspected of being a victim of domestic sexual abuse.

#### *AMA action*

Attention Note on Violating Children's Rights in Information Editions.

#### 47) News24 television, 2016

During news broadcasts, a TV station broadcast an interview with a mother whose daughter was allegedly raped. The mother's full identity with other details, such as her address, indirectly identified the identity of the child who alleged to have been abused.

#### *AMA action*

Attention Note for violations of children's rights.

#### 48) Top Channel television, News24 television and Ora News television, 2017

During news broadcasts, TV stations broadcast pieces which indirectly led to the identification of a minor girl who was allegedly abused by her father.

#### *AMA action*

Attention Note for violations of children's rights.

#### 49) News24 television, Ora News television and Report television, 2017

During news broadcasts, TV stations broadcast a story of allegations about a neighbour who had sexually abused a 15-year-old girl, violating the principles of child protection. The girl's identification was indirectly published, with images of her home and other details about the village and district were made public.

#### *AMA action*

Attention Note for violations of children's rights.



## **BOSNIA AND HERZEGOVINA:**

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### **50) OBN, 2010, central news, reportage on the case of the sexual abuse of a minor**

CRA conducted an *ex officio* analysis of programmes of a number of television stations, among others OBN, reporting on the case of the sexual abuse of a female minor from the area of Bratunac<sup>45</sup>.

The analysis of the programme showed that in the central news program “Vijesti”, containing information related to sexual abuse of a female minor and on police action in the area of Srebrenica and the Bratunac municipality, it was stated that: “among the arrested there is a grandmother of an underaged M.M.”, including footage of this family’s home. Also, the programme contained a statement by a minor’s aunt, which was signed with her full name.

#### ***CRA action***

The programme in question did not reveal the name and surname of the minor victim nor was her face shown, but the information that could easily reveal her identity was indeed broadcast, and this could only additionally jeopardise her already vulnerable position. The station, in its letter to CRA, stated that it did not check whether the footage showed her house, which is would be wholly irresponsible and unprofessional. The girl lives in an area of limited size, and the inhabitants of the area could have easily recognised house featured in the programme. While presenting information that could have harmful consequences for a minor, it is extremely important to enable protection of the minor first within their community and in the place where they live, and ensure prevention of further problematic situations, but also within a wider scope of society. Stations must pay due attention while publishing information of this kind in order to protect potentially vulnerable minors involved in the case, regardless of the sources of information. CRA did not accept the position of the station that interviewees are solely responsible for their statements, which may true, but ignores the fact that responsibility for the entire broadcast programmes lies with the station itself. In this case it was determined that the station did not undertake all measures to prevent disclosure of a minor’s identity. CRA deemed that while reporting on a sexual abuse victim, the station published information that could indirectly disclose their identity and jeopardise their status. CRA concluded that the station violated provisions related to reporting on criminal acts involving minors and issued a written warning.<sup>46</sup>

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45 Small city in Eastern Bosnia and Herzegovina.

46 A certain number of TV stations broadcast similar reportages, and CRA issued written warnings to each.

## 4. CASES RELATED TO PARTICIPATION OF MINORS IN PROGRAMMES

### BOSNIA AND HERZEGOVINA:

#### 51) TV Canton Sarajevo, 2009, Central news, reportage about a minor with a serious illness

During a news programme broadcast at 18:30 hours, TV Canton Sarajevo broadcast a reportage about the case of a minor suffering from a rare and severe skin disease.

CRA initiated an investigation *ex officio* and requested programme recordings. Analysis of programme recordings showed a broadcast reportage about the minor girl with a rare skin disease. In the introductory part, information related to the minor's illness was presented, with anchor commentary, which both verbally but also by non-verbal communication, was presented in a way so as to draw *a priori* conclusion to the reasons of minor's illness: "*Due to negligence of doctors in Foča hospital at the beginning of the war, a girl got sick from a rare skin disease. One of the first victims of genocide in Foča, this girl lives with her disease today, only because her name was...*"<sup>47</sup>, also: "*Born prematurely, she saw horrors of war while in hospital, where most of the doctors were engaged in genocide over Bosnian nationals.*"

#### **CRA action**

The station, in their response to alleged violation of rules, stated that the intention of the story was to help the minor. However, CRA determined that the manner of presentation especially considering the personal and politically evocative comments was not in accordance with the declared intention of the programme, and in contravention of standards relating to presentation of news by the anchor. This is in consideration of the basic aim of presenting objective and balanced information to the public, while presentation of news must be limited to impartial statements of facts without expressing personal beliefs via either verbal or nonverbal communication. Without taking account of the selection of topics, within the scope of editorial policy, CRA determined that no part of the broadcast reportage provided information related to provision of help to said minor. The primary focus of the story took a completely different turn, with political connotation and ideologically coloured comments by the anchor and reporter. With this, regardless of initial intent, the station permitted one opinion to prevail, which led to non-objective and one-sided presentation of the story. Mixing the comments and the topic itself in a manner presented in this case lead to the conclusion that the station misused media space and politicized one tragic story whose aim was of, as stated, humanitarian character. In this case the conclusion was that the girl's presence was abused in conflict with her wellbeing and dignity, considering the overall content. Violation of provisions related to the portrayal of vulnerable groups and participation of minors in programmes was determined and the station was issued a financial penalty in the amount of 500 EUR.

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<sup>47</sup> Information provided girl's full name, which is of Bosniak ethnic origin.

**52) TV Vogošća, 2009, broadcasting of a music video – violation of provisions related to respect of professional norms and protection of minors**

CRA initiated an *ex officio* case of potential breach of relevant rules in relation to the broadcast of a music video by folk singer Selma Bajrami in TV Vogošća's programme at 19:10 hours.

The music video portrays the singer taking on a role of an elementary school teacher in a classroom full of minors. Having failed to engage the pupils in the classroom activities, the "teacher" attempts to attract their attention in a different manner, dancing skimpily dressed and with overly eroticised movements.

***CRA action***

Upon the initiation of proceedings based on relevant provisions concerning the participation of minors in programme content, the station, in its letter to CRA on alleged violation of rules, responded that the content of the music video did not represent abuse of any kind, nor could it cause anxiety or fear in children appearing in the video. They further stated that it was a matter of artistic expression, where it was difficult to draw the exact line as to whether something is decent or not. The station nonetheless believed that the authors of music videos and other forms of video expression, as well as the media, had an obligation to protect children and prevent any abuse, citing negative examples in programmes of other media outlets. Ultimately, the station decided to stop further broadcasting of the video in question.

Without attempting to interpret the artistic expression of the programme in question, the CRA rather focused on the content of the music video, in which the teacher tries to attract the pupils' attention by removing clothes and performing eroticised dance movements. Exercise of the right to freedom of artistic expression implies certain respect for media's specific relationship with the society, not only in terms of being at its service, but also in terms of the responsibility that media should demonstrate by their professional behaviour, which includes respect of the basic principles of the protection of children and minors.

The very concept of this singer's music video spot in which she appears as an educator whose method of engaging students includes erotic movements, removing clothes and handing out confectionary, as well as the message that it conveys, was deemed to be harmful for the well-being and dignity of children and minors. Programme content that depicts and that is available to this sensitive category should communicate positive values, and the media should demonstrate awareness about the impact on this category. By broadcasting the music video in question, the station failed to observe basic principles of professional journalism in terms of its responsibility towards the public, and especially children and minors. Based on that, the station violated provisions related to respect of professional norms and protection of minors and CRA issued a written warning.

## **SERBIA:**

### **53) TV Happy, 2016, participation of minors at inappropriate times**

On 16 February, in the slot from 12:00 to 13:00, in the reality show *Parovi – Kućni savet (Couples – Tenants' Council)* TV HAPPY broadcast an argument involving several participants and extremely inappropriate language, insults and expletives. Participants also mentioned the use of drugs in the residence. According to the established and repetitive programme scheme, half an hour after the verbal argument, minors appeared in the programme.

On 23 and 24 February in the slot from 21:03 to 02:32 the show *Parovi – Goli život (Couples – Naked Life)* included a visit of the family with nine children. On that occasion one of the female participants made inappropriate comments to the presenter in the presence of a minor girl.

### ***REM action***

The regulator issued a warning to HAPPY TV, as the reality show broadcast content in violation of legal requirements related to protection of minors and protection of human rights. They namely violated Article 47 paragraph 1 item 4; Article 50 paragraphs 1, 2, 3; Article 68 paragraphs 2 and 3 of the Electronic Media Act, as well as Article 17 paragraph 1; Article 22 paragraph 5 and Article 24 paragraph 1 of the Rulebook on protection of minors in provision of media services. They also violated Articles 20 and 27 paragraphs 1, 2 and 4 of the Rulebook on protection of human rights in provision of media services.

The Council of the Regulator issued the warning due to the fact that content that could harm the physical, moral or mental health of minors was broadcast at a time when it could be reasonably expected that the minors would watch TV programming. The broadcast involved minors in which the participants demonstrated violence, criminal and other prohibited behaviour. Happy TV did not show due care in broadcasting the content that included information about discrimination, hatred and violence on the grounds of race or nationality, religious or political beliefs or genetics.

## 5. CASES RELATED TO COMMERCIAL COMMUNICATIONS AND MINORS

### ALBANIA:

#### 54) “Digitalb”, 2017

The television platform broadcast commercial advertising with images without providing minor protection with conditional access and parental control.

#### *AMA action*

Attention Note to the platform for violating children’s rights.

## MONTENEGRO:

### 55) TV Pink M, 2018

By analysing the broadcast program, *ex officio*, the Agency for Electronic Media noted that on June 25, 2018, TV Pink M broadcast the show “City M”, and in it an advertisement for a medical product “GE kids – International health” intended for minors, and produced by the sponsor of this show.

Within the show “City M”, TV Pink M broadcasted a promotional message, at 12:14 pm, in the form of a video clip promoting the medical product “GE kids – International health”, in the duration of 31 seconds. During the broadcasting of the video/ad, it was pointed out that this was the sponsor of the City M show.

The action of the TV spot takes place in a sports hall where children (dressed in sports equipment) toast with glasses containing a yellow beverage, and the dialogue was as follows:

Boy 1: *“Do you know that I did not miss one practice this year?”*

Boy 2: *“Me neither. That’s why we have excellent results.”*

Little girl: *“Do you know why this is so? Because you were not sick.”*

Boy 3: *“We cannot be sick because we take GE kids.”*

Subsequently, a woman accompanied by two children addresses the audience: *“Parents, do not let the story of children’s diseases scare you. Do what you can. Invest in your child’s health”.*

### **AEM action**

In accordance with the competencies established by the Law on Electronic Media, the Agency for Electronic Media requested a written statement from TV Pink M. In the submitted statement, the broadcaster states that *“as the aforementioned video was broadcasted on TV stations in Montenegro previously, as well as in the region, they thought it was in line with the rules on audiovisual communications”*. The broadcaster stated that *“they have informed the client (the advertiser) about the controversial content”* and that *“they will be very careful about the problem in question and prohibit every form of violation of obligations in the future”*.

When deciding, AEM assessed that the advertisement contained a message by which a minor recommended a medical product “GE kids” as a product that if consumed would prevent the illness and contribute to achieving “excellent results” (“We cannot be sick because we take GE kids.”). The aforementioned is not in line with the provisions of the Rulebook on commercial audiovisual communications which stipulate that ads aimed at minors must not recommend medications and medical devices, including vitamins, other than infant toothpaste, and that these advertisements must not contain messages suggesting that use of certain products or services will result in physical, intellectual or other social advantages over other minors who do not use these products and services.

Besides, the ad was not recognisable and audiovisually separated from other programme content, and during the duration of the ad it was emphasized that “City M” was the sponsor of the show. In this way, the obligation was violated based on which sponsored programmes should not directly encourage the purchase or rental of goods or services of a sponsor or a third party, particularly through special promotional references to those products and services in those programmes. The aforementioned, thus, represented violation of the provisions of the Electronic Media Law (Articles 89 and 95) and the Rulebook on commercial audiovisual communications (Articles 21, 37, 61 and 68).

After conducting the procedure, and taking into account all relevant facts, a warning was issued to the broadcaster, with the obligation to publish the issued warning in its programme.

## **NORTH MACEDONIA:**

### **56) Commercial for “Pizzeti 7 Days”, 2016, aired by a number of different TV stations**

The complainant about the TV commercial for the product “Pizzeti 7 Days” that was broadcast by many TV stations, demanded it to be prohibited from airing because the content was not adequate for the age of the children that were targeted; the commercial was negative and caused fear and agitation; and it was already prohibited in neighbouring Bulgaria.

The Agency looked into the contents of the commercial and the times it was aired by most of the TV stations at a national level, as well as the context of the rules for broadcasting audio-visual commercial communications, as well as the rules concerning protection of minors. In addition, the information provided in the complaint that the commercial was prohibited from airing in the Republic of Bulgaria was checked.

The monitoring established that the main components of the TV commercial for “*Pizzeti snack*” were humour and sarcasm. The advertisers used the cliché/stereotypes about the Italian mafia as presented in motion pictures. Even if one is not fully familiar with the filmography, in this case the cliché was easily recognisable immediately as direct parody of the format/role of the “*Mafia godfather*”: due to the intentional choice of music, scenography – overall studio ambiance, and especially because of the caricature/sarcastic acting: facial expressions and Italian-American idiolect/sociolect.

In the commercial there were no minors, and after checking the airtimes and the programmes during which this commercial was run, it could not be concluded that it was targeting minors.

According to the information available from the media it was established that in the Republic of Bulgaria the airing of the commercial was limited, but due to violation of legal provisions concerning competition.

### ***AVMU action***

Given that advertising is protected with the right to freedom of expression guaranteed by the European Convention on Human Rights and the Constitution of the Republic of North Macedonia and could be limited only in reference to Article 10 paragraph 2 of the Convention, the Agency came to a conclusion that by broadcasting the TV commercial the Law on Audio and Audiovisual Media Services was not violated i.e. that there were no legal requirements for limiting their broadcasting, and the complainant was informed about this in writing.



## 6. CASES RELATED TO ELECTIONS AND MINORS

### KOSOVO\*:

#### 57) Various

During the monitoring of general elections, from May 31 to June 11, 2017, political spots were identified that included children in violation of Article 9.7 (inclusion of children in spots) of the Code of Ethics for the Audio-visual Media Service Providers. The following broadcasters have been found in breach and issued a warning: TV SYRI VISION, KLAN KOSOVA, TV 21, TIBUNA Channel, TV KIM, TV MIR, RROKUM TV, TV BESA, TV HERC, TV P ULS, TV MOST, TV ILIRIA, RTK 1.

During the local election period, which were held from 21 September to 22 October 2017 (first round) and from 13 to 19 November 2017 (second round), the following stations have been found in breach of relevant rules on the use and presence of children in various promotional spots of political parties: Klan Kosova (sanctioned with a fine of 5 000 EUR), TV DUKAGJINI, TV 21 and TV MOST.

## **SERBIA:**

### **58) Prva TV, 2016, use of children for election campaign purposes**

In the show *Veče sa Ivanom Ivanovićem (Evening with Ivan Ivanović)* Prva TV broadcast content that did not respect the dignity and free personality development of minors (in a form of survey, children answered the question “What do you think about elections?”). This part of the transmission contained statements of children age 10 to 12 who were brought into the situation to speak about very sensitive topics such as politics. In their own vocabulary, the children commented on questions why elections are being held, who could win and who should lead Serbia. The questions about politics were not adapted to the age of the minors.

#### ***REM action***

The regulator issued a reprimand to TV Prva due to violation of Article 68 paragraph 11 of the Electronic Media Act and Article 24 paragraphs 1 and 2 of the Rulebook on protection of minors in provision of media services.

In this case, in addition to obtaining parental consent, the broadcaster should have been particularly cautious when involving minors in the programme and was responsible for the content that it had broadcast. In the broadcast content the dignity and free development of the personality of minors was not respected, i.e. participation in the show was not adapted to their age, given the sensitivity and complexity of the topic of politics that the questions referred to. The broadcaster was obliged to adapt the questions to the age of the minors and not to put minors in problematic situations.

## Annex 3: Media and Information Literacy activities of National Regulatory Authorities taking part in JUFREX project

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Some of the examples of best practices in relation to media literacy and protection of minors are presented, starting with the Croatian example, as one of the most pro-active in this region. In that respect, and in order to emphasize the fact that the Council of Europe places these issues high on its agenda, special recognition is owed to a publication titled *Regulatory Authorities for Electronic Media and Media Literacy – Comparative Analysis of the Best European Practice* prepared within the JUFREX Project at the request of the Serbian Regulatory Authority for Electronic Media (REM). For the purpose of this publication, and in an attempt to recognise the best practice NRAs can take in order to tackle this very important aspect related to protection of minors, some aspects of the aforementioned publication are emphasised.

## ALBANIA

In Albania, the regulatory authority has been involved in the organisation of several activities, seminars and conferences for this purpose. The most recent event was organised on May 21, 2018, in which media experts discussed media literacy with the expert group.

During the years of 2015 and 2016, the regulator has, in cooperation with the Albanian Media Institute in Tirana, conducted training/qualification in several districts of the country, with the aim to improve reporting on children's rights.

In 2017 and 2018, the regulatory agency, in cooperation with the Albanian Center for Public Communication, was engaged with "in-house" training of national and local radio and television broadcasters, in relation to promotion of the Broadcasting Code, particularly in relation to issues of hate speech and protection of minors.

## BOSNIA AND HERZEGOVINA

Despite the increasing development of new technologies and new media in society, there is no sufficient public discussion of issues related to media literacy.

Following the current regulatory practice in Europe, CRA has taken on the task of promoting media literacy and raising awareness of responsible and safe use of all media services. In 2009, a special focus was put on the protection of children. In that respect, CRA, together with UNICEF and Save the Children Norway, organised a conference on “Protection of Children from Inappropriate Television Content”, on the same week when the 20th anniversary of the Convention on the Rights of the Child was marked. Pedagogues, psychologists, representatives of TV stations and other media attending the conference discussed many relevant issues, with the main objective to raise awareness of the importance of parental guidance and to initiate discussion about the protection of children in the new media environment between different stakeholders in the field of protection of children and education.

One of the results of this conference was the production of a study on Influence of Television on Children on the influence of television content on children. This study gives insight into minor’s interpretation of TV programmes, with different age stages in the development of children and their ability to interpret audiovisual content.

CRA participated, together with the Ministry of Security, Office of the State Coordinator for Anti-Trafficking in Humans, at creating an Action Plan for the improvement of the system for combating child pornography and other forms of sexual abuse and exploitation of children by means of information and communication technology, as the CRA, a converged communications regulator, is also in charge of licencing Internet Service Providers.

For current as well as future activities in this field, CRA’s active role in promotion of media literacy first and foremost foresees the primary role of the regulator in this field in terms of conducting research and cooperating with as many stakeholders as possible. There is a lot of space for research on different topics. Although Bosnia and Herzegovina is not member of the EU and is not obliged to report on the level of media literacy, it should consider how it could assess the level of media literacy within the current socio-politic situation.

Currently, CRA is conducting research in terms of qualitative and quantitative analysis of certain programmes in audiovisual media services and radio media services. These programmes include children’s and educational programmes, programmes aimed at minorities and vulnerable groups of the population, and should be published in early 2019.

Also, CRA is launching an awareness-raising campaign which will include a TV spot and written informational materials. The main objective of this campaign shall be to raise awareness about the possible impact of television content on children and ensure that parents supervise their children when watching TV. The spot will be featured in early 2019, coupled with the brochure, which will be widely distributed.

Further, CRA is planning to establish regular research activities in relation to media use and media habits of different age groups, particularly minors.

CRA initiated cooperation with Media center in relation to the establishment and functioning of a website dedicated to media literacy. In the forthcoming period, many coordination meetings will be held in this direction, with an emphasis on engaging as many stakeholders as possible.

CRA has and plans to continue to cooperate with educational institutions in relation to promotion of media literacy, with the ultimate goal of establishing a media literacy curriculum.

## CROATIA

The activities surrounding media literacy in Croatia stem from personal involvement of members of the Council of AEM Croatia and recognition of UNICEF office in Croatia, as well as from regular research activities. Some of the activities included:

### *Co-funding media literacy projects (2015–2018)*

Independently of the work with UNICEF, AEM HR, in 2015, launched a fund for media literacy projects: a regular annual public tender to co-finance media literacy projects. All universities, institutes, educational institutions, associations and other legal entities developing and implementing media literacy related projects (seminars, workshops, conferences, lectures or surveys, for example) were eligible to participate. In the first years, with significant initial interest, just over 20 000 EUR was awarded. Interest subsided in the subsequent period of two years only to be exceptionally high in 2018, during which the sum of awarded funds rose to 40 000 EUR<sup>48</sup>. This could be perceived to be the result of AEM's dedication to activities related to media literacy awareness.

### *“Let's choose what we watch” media campaign (2015, 2016, 2017)*

This media campaign comprised three TV spots<sup>49</sup>, with the campaign's goal being to raise awareness of the importance of media literacy among parents, caregivers and children, the importance of careful selection of media content for children, and the importance of using age-based TV rating system.

### *Recommendations for the Protection of Children and the safe use of Electronic Media (2016)*<sup>50</sup>

The recommendations were prepared by the Council of AEM HR, primarily in order to facilitate the implementation of the Ordinance on The Protection of Minors in Electronic Media and to meet the requirements for television, radio, on-demand services and electronic publications. Although the Recommendations are in essence a bylaw by which AEM HR specified the details of the Electronic Media Act and Ordinance on the Protection of Minors in Electronic Media and the related legislation, they served to reinforce the necessity of media literacy among children and parents. In this way, they are a part of the overall media literacy project executed by AEM HR and UNICEF.

### *Internet Website [medijskapismenot.hr](http://medijskapismenot.hr) (2016)*

One of the subsequent steps of the media literacy campaign included the launching of the internet website dedicated to media literacy, [medijskapismenot.hr](http://medijskapismenot.hr).

In this way, AEM HR and UNICEF expanded their pool of partners, and involved the Academy of Dramatic Art, the Faculty of Political Science of Zagreb, the Croa-

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48 An individual project can receive a maximum of EUR 5,400 in a year.

49 TV spots available at: [https://www.youtube.com/playlist?list=PLBEF5D3iSy2JCLIXxLpQgx-0tYcc\\_7Ii6Q](https://www.youtube.com/playlist?list=PLBEF5D3iSy2JCLIXxLpQgx-0tYcc_7Ii6Q).

50 Available at: <https://www.e-mediji.hr/en/news/recommendations-for-the-protection-of-children-and-the-safe-use-of-electronic-media/>

tian Audiovisual Center and the Croatian Film Association. They signed a cooperation agreement with partners and this became a cornerstone for a media literacy network. By expanding the circle of partners for the web portal project onto stakeholders that focus on education and create, foster or finance various content, the project created a synergy effect and facilitated the creation of content for the web portal. The portal itself has only one employee – the editor in chief, whose fee is financed by AEM HR. There are plans to expand the circle of partners, bringing the number of web portal partners to twelve.

### *Media Literacy Days (2018)*

The Agency for Electronic Media and UNICEF developed and, in April 2018, launched the Media Literacy Days, the biggest media literacy project organised in Croatia. The Media Literacy Days were launched in order to establish a platform that would facilitate gathering and cooperation among various social stakeholders, to promote and organise sustainable media literacy projects, and to raise public awareness of the importance of media education. From the outset, the Agency and UNICEF found project sponsors in the Ministry of Culture and the Ministry of Science and Education; Carnet (an academic research network), which provides online and digital services to all schools in Croatia; the Croatian Film Association with its wide network of film clubs and film literacy projects; the Association for Communication and Media Culture, the civil organisation most active in media education; and the leading national media. In cooperation with municipal libraries in 15 Croatian cities, the Agency for Electronic Media organised lectures and workshops on media literacy, by defining topics with libraries, and then providing lecturers and other resources. This in turn encouraged libraries (as well as other associations and faculties) in other cities to join the project, while kindergartens and schools carried it out via workshops, making use of educational materials developed for the Media Literacy Days.

The Media Literacy Days took place between April 18 and April 21; various activities also took place throughout the second half of April. Ultimately, 61 cities and towns hosted 130 workshops, lectures and panel discussions on the topic of media literacy, intended primarily for children and youth, as well as teachers and, to some extent, all generations. It is estimated that more than 6 500 children and around 660 adults from across Croatia took part in the project.

The project consisted of several segments – public lectures and workshops, development of digital educational materials, printing booklets for parents and picture books for children, and workshops for select schools in the leading media. In cooperation with experts, teaching materials were developed to hold media literacy lectures for children and youth in kindergartens, primary and secondary schools, and these materials were downloaded from [www.medijskapismenost.hr](http://www.medijskapismenost.hr) (15 000 downloads in April). For the kindergartens, materials were developed for the Optical Toy Workshop, while teachers received materials covering the following topics: Positive and Negative Media Content (elementary school grades 1 through 4), Child Safety on the Internet and Electronic Violence (elementary school grades 5 through 8), and How to Spot Misinformation and Fake News (secondary schools).



A picture book was also printed for children, parents, guardians and tutors. Parents and caregivers received the booklet titled *Children and Media*, translated and adapted from the original publication of the same name, published by Finland's National Audiovisual Institute (KAVI), which lent the rights to the Agency for Electronic Media.

Under the title *Children Meet Media*, in the media it is organized interactive workshops for students between 5<sup>th</sup> elementary and 4<sup>th</sup> secondary school grade.

There are a number of other interesting and applicable projects under the umbrella of media literacy in Croatia which may serve as an inspiration throughout the region, and wider. For more details, please refer to the Council of Europe's publication: "Regulatory Authorities for Electronic Media and Media Literacy – Comparative analysis of the best European practices."<sup>51</sup>

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51 Available at: [https://www.coe.int/en/web/freedom-expression/home/-/asset\\_publisher/RAupmF2S6voG/content/presentation-of-the-study-regulatory-authorities-for-electronic-media-and-media-literacy-comparative-analysis-of-the-best-european-practices-?inheritRedirect=false](https://www.coe.int/en/web/freedom-expression/home/-/asset_publisher/RAupmF2S6voG/content/presentation-of-the-study-regulatory-authorities-for-electronic-media-and-media-literacy-comparative-analysis-of-the-best-european-practices-?inheritRedirect=false), accessed on February 15, 2019.

## KOSOVO\*

### Programmes for children

With the aim of assessing compliance with Part 3 of the License, the Department of Monitoring and Analyses (DMA) monitored the programming content of AMSP's broadcast during one week in the January-June 2018 period. Visibly, there is a lack of children's programming in the TV programme schedules.

The report includes twenty-five (25) AMSP's:

- Three (3) TV's with national terrestrial coverage, one being public broadcaster (RTK1) and 2 commercial (KTV and TV21).
- Sixteen (16) TV's with regional/local terrestrial coverage, TV DUKAGJINI, TV SYRI VISION, TV OPINION, BALKAN TV, TV PRIZRENI, TV BESA, TV PULS, TV VALI, TV TEMA, TV LIRIA, TV FESTINA, TV ILIRIA, TV HERC, TV MITROVICA, TV MIR and TV MOST.
- Six (6) AMSP's that operate through DO's: KLAN KOSOVA, RROKUM TV, TRIBUNA CHANNEL, 1ST CHANNEL, RTK2 and TV KIM.
- Organising regional meetings with media

After identifying violations during the monitoring of compliance with the IMC regulations, for a period from 6 to 19 September 2017, IMC organized meetings with the AMSP's in 6 regions, with the aim of ensuring compliance and professionalism by audio-visual media service providers.

The topics discussed by the IMC were mainly focused on the work of media during election campaigns, namely in relation to the violations of the media and other problems during the last election campaign, developments in the legal regulation of the IMC, including the adoption of new IMC regulations regarding the digitalization and the observance of IMC legislation by the media, namely by emphasizing specific violations of the regulations that are most common among the Audio-visual Media Service Providers.

Meetings with the IMC licensees will be held also this year from 15 to 19 October 2018 in five centres in the country, which will include discussion on the protection of children and minors from audio-visual content.

## MONTENEGRO

Although media literacy is considered to be a key precondition for the active participation of citizens in the contemporary information society, understanding of the idea and concept of media literacy is at a very low level in Montenegro. The necessity of developing media policies focusing on the enhancement of media literacy skills seems a logical solution to this problem. The European Commission recommends that the audiovisual media regulators should take a leading role in the development of media literacy in their environment.

Aware of the necessity for a more proactive approach in developing media literacy, while bearing in mind that the protection of minors is one of its key activities, the Agency for Electronic Media and UNICEF signed the Memorandum of Understanding in the process of improving, realising and protecting children's rights in electronic media, in early 2018. It is implemented in line with the legal framework within which both parties operate and the programming documents, such as annual work plans of the AEM and the Country Programme Document for UNICEF Montenegro 2017–2021.

The main goals of this cooperation include the promotion of media literacy among parents and children; improvement of the quality and strengthening the capacities of the media to ethically report on the situation of children and child rights, and disseminate the information through both news and other programmes on radio and TV; encouragement of relevant authorities, parents, experts and other stakeholders to be active partners in the process of developing and implementing new policies for better respect of the rights of children in electronic media; improvement of the quality of media programmes for children and made by children by building capacities and advocating for securing funding for that purpose; improvement of the system regulating the electronic media in order to improve ethical reporting on child rights issues in electronic media; promotion of self-regulation and co-regulation in the production of high-quality and inclusive programmes for children, and other activities aimed at improving, realising and protecting children's rights in the electronic media.

The envisaged activities aimed at achieving the goals of this cooperation include: research contributing to the development of AEM's policies and recommendations for ethical reporting on children in the electronic media; organisation of public consultations; promotion of media literacy among parents and children; supporting the improvement of quality of media reporting on the issues pertaining to the rights of the child; supporting the improvement of the quality of media programmes for children and made by children in Montenegro.

The Agency and UNICEF have launched a media literacy campaign "Let's Choose What We Watch".

The campaign started with three radio and TV advertisements, which targeted parents with the key message: "Let's Choose What We Watch". The TV videos have been developed and successfully used in a successful campaign sharing the same name, carried out by UNICEF and the Agency for Electronic Media of Croatia. The broadcasting of radio and TV advertisements has been supported by all electronic media, many online publications and the "Cineplexx" cinema in Podgorica.

The videos were produced to provoke a reaction among parents and draw attention to the potential consequences on the behaviour and thinking of children under the influence of the media. The intention of the videos was to encourage the parents to talk to their children and explain what inappropriate media contents are and how to interpret them.

Aware of the importance of media literacy and its impact on the development of young people, the well-known artist Vučić Četković has joined the campaign. A three-day art workshop for children was organized together with him at the Elementary School “Vlado Milić”.

On the first day of the workshop, the advertisements of the campaign “Let’s Choose What We Watch” were screened along with several TV commercials. With Četković’s assistance, the children analysed the advertisements, answering the key media literacy questions: who created the message; for whom it was created – who is targeted by the message; which system of values/ideas/behaviour this message promotes, which creative techniques were used to attract viewers’ attention, why is this message sent – what is its goal and what is left out of the media message?



On the basis of the questions used to analyse the advertisements, the children were divided into groups to draw/paint the advertisements in order to send the message of the campaign “Let’s Choose What We Watch” to both parents and other children.

The children’s paintings were exhibited in the school lobby, which was followed by a public event attended by media outlets, featuring the children’s presentation of their artwork.

The children discussed the paintings with the visitors, focusing on what message they send to peers and parents – how the media content is selected, what issues are taken into consideration, what are the parents’ considerations and how they talk to their children about the contents they consume, how to help them critically analyse media messages and not fall under their influence.



## Young reporters

The target groups of the campaign “Let’s Choose What We Watch” are parents, young people and the media.

Since part of the campaign focusing on the young people would produce the best results if they are involved as active partners to the campaign, the project “Young Reporter” has been launched. The idea behind this project is to gather together children and young people, including the ones from marginalised groups, and develop their skills allowing them to be reporters/correspondents for the media or potential collocutors in the production of programmes focusing on children’s rights.

Training focusing on the needs of the young people was organised, and will be held on weekends over a period of twelve months. The practical part of the training focuses on the development of the young people’s technical skills necessary for their media literacy. This includes the ability to create media messages. The theoretical part allows them to learn the basics of media literacy and the skills they need to analyse, critically understand and evaluate contents, information and influence of the media and their messages on society.

The topics discussed at the workshops include potentially harmful contents (violence, advertisements, stereotypes or pornography), influence of the media and harmful content, regulation and self-regulation, and new technologies and their social role. This includes industrialisation of information, entertainment and culture, interactive communication, new media platforms such as blog, photo-essay, infographics, vlog, animation, and video production.

The young reporters had an opportunity to express their opinions by creating or producing their own media contents and through their participation in the media programmes.



The Music School “Andre Navarra” and the Music and Ballet Art School “Vasa Pavic” have joined the media literacy campaign launched by the Agency with the support of UNICEF. The students of the Music School “Andre Navarra” played in different locations in Podgorica, while the students of the Music and Ballet Art School “Vasa Pavic” listened and danced to their music. The footage of this art event was used to make a new video of the media literacy campaign with the message “Let’s Choose What We Listen to”. The video of this campaign was aired by TV broadcasters free of charge, raising awareness of how a good choice of media contents could have a positive effect on the development of children.

Together with the young reporters of this campaign, UNICEF’s Good Will Ambassador Antonije Pušić aka Rambo Amadeus recorded the song “Let’s Choose What We Watch”. The young reporters actively participated in writing the lyrics, recording and producing a video. The purpose of this activity is to reinforce the messages of the campaign by lyrics and music.

The song opens with the message: *“Everybody has a smartphone, but we should be smarter than it is, I should only turn it on when I really need it, otherwise I don’t have much use for the technology”.*

### **The survey “children, parents and the media”**

Within the framework of the media literacy campaign “Let’s Choose What We Watch”, the agency “IPSOS” has carried out a survey of media consumption by children and parents “Children, Parents and the Media” for the Agency for Electronic Media and UNICEF.

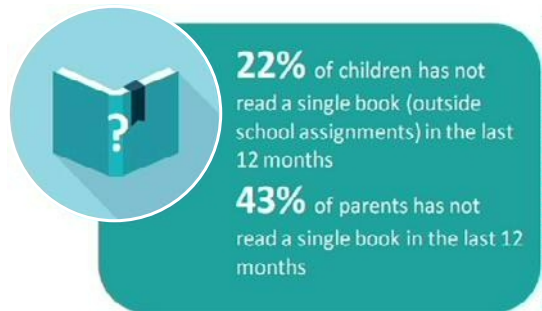
The Survey “Children, Parents and the Media” was carried out in August 2018 on a representative national sample of 1 050 parents of children aged between 4 and 17 and 655 children aged between 9 and 17 on the basis of a questionnaire filled out at homes throughout Montenegro during August of 2018.

According to the results of the survey, 9 out of 10 children, regardless of their age, are surrounded by all contemporary communication and information devices, predominantly by screen devices. The availability of technology increases with children's age. It is clear that a modern society cannot be imagined without a TV set, smartphones, video game consoles, computers and tablets we use for work, entertainment, education and other forms of communication.

The children and young people are inevitable part of this process because, not only are they surrounded by modern information and communication technology, a lot of them actually own these devices. 90% of children aged between 12 and 17 have a smartphone, while this percentage is considerably lower for children between 9 and 11 (63%) and children between four and eight (21%).

For this reason, it is necessary to start developing their media literacy skills at a very early age. Many surveys show that it is important to be careful about which content children of that age consume and how. The role of the family is of key importance in this process. In order to develop the skills they need to analyse and critically evaluate all content available to their children, parents need institutional support. The survey "Children, Parents and the Media" shows that 40% of parents believe that parents are responsible for the development of their children's media literacy, while 58% of parents believe that they need the support of schools in that process.

Given the omnipresence of the "screen" in children's lives, it is not a surprise that children aged between 12 and 17 spend an average of three and a half hours a day using their mobile phones, around two hours a day watching television, around one and a half hours in front of a computer or laptop, a little less than an hour a day playing games, and approximately twenty minutes a day using their tablets. The majority of children (43%) aged between 9 and 17 could not imagine their everyday life without a mobile phone. However, there are significant differences for different age groups: younger children would miss the television much more, while older children appreciate more the time they spend using their mobile phones.



What is unexpected, however, is that the majority of parents are not concerned about this, believing that their children have found a good balance between the time spent in front of a screen and the time spent on other activities. Nearly one half of parents believe that the time spent in media consumption has neither a positive nor negative effect on the quality of their relationship with their children and their social dynamics and interaction. However, around one-third of parents believe that there are negative effects of the time their children spend in front of a screen and that the time spend in that way has a negative impact on their relationship with their children.

As for parents, 86% watch television every day, while 20% of them read books in print or electronic format. On school days, 76% of children watch television every

day, while 30% read books in print or electronic format. On the other hand, the survey shows that 43 percent of parents have not read a single book in the last twelve months. In the same period, 22% of children have not read a single book (other than for a school assignment).

Children's television consumption habits differ depending on their age. As expected, the youngest children (4 – 11) prefer children's programmes. More than a half watch children's programmes on foreign TV channels for children. The percentage is a little higher (57%) for younger children. Only 27% of children between 9 and 11, and 48% of children between 4 and 8, watch domestic children's programmes.

Older children mainly watch television channels with predominantly sports, entertainment, films and documentary programmes. They watch most of these programmes online or on foreign television channels transmitted by operators. This indicates that the foreign media have more capacity to meet the demand of children and young people, which presents a new challenge to domestic media production.

Parents' perception mainly corresponds with the answers given by children of this age, which indicates that they follow their media consumption carefully. Furthermore, parents agree with children's opinion that better quality and age-appropriate contents can be found first online and then on foreign television channels.

The survey shows that the influence of television on children declines with their age, while that of the internet and social networks increases, which is something both children and parents are aware of. This means that parents are aware of the trends in their children's media consumption. However, there are a large number media messages sent through TV programmes, films, images, texts, video games, and audio messages. It is very difficult, even for parents, to cope with the sea of information available, which is very difficult to analyse and evaluate critically.

Another consequence of such media consumption and approach to media messages is the apathy of citizens and their inability to recognise propaganda, and decide if certain information is false or not. Fake news, disinformation and propaganda have always been present but they are nowadays spread quickly through social networks, becoming global. They also impact public opinion very quickly. According to Cambridge Dictionary, fake news consists of false stories that appear to be news, spread on the internet or using other media, usually created to influence political views or as a joke.

The survey "Children, Parents and the Media" indicates that 34% of children aged between 12 and 17 and 49% of parents have heard the term FAKE NEWS, but most of them do not know what it means. The attitude of a majority of parents, as well as older children, towards the accuracy of information they receive through the media is cautious and careful.

Even though television enjoys the greatest confidence compared with all other media, both parents and children find it most difficult to estimate the accuracy of information coming from this source. Parents have a little more confidence in their ability to assess the accuracy of information, while nearly 40 percent of children believe it is difficult to identify a false piece of information on television.

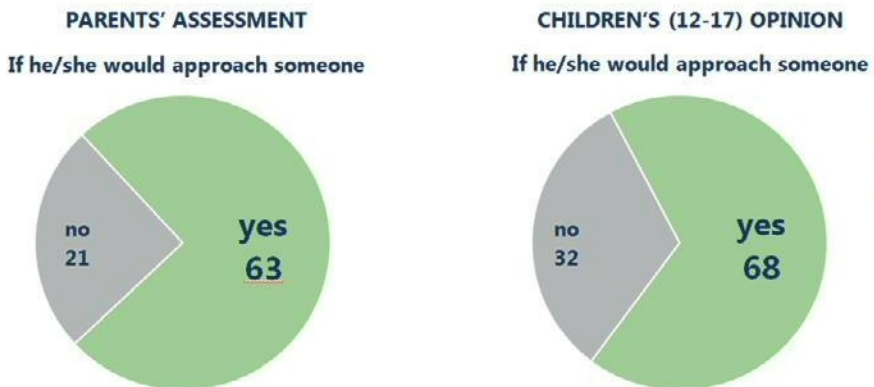
In terms of confidence in information obtained from a social network, parents have much more reservations than children.



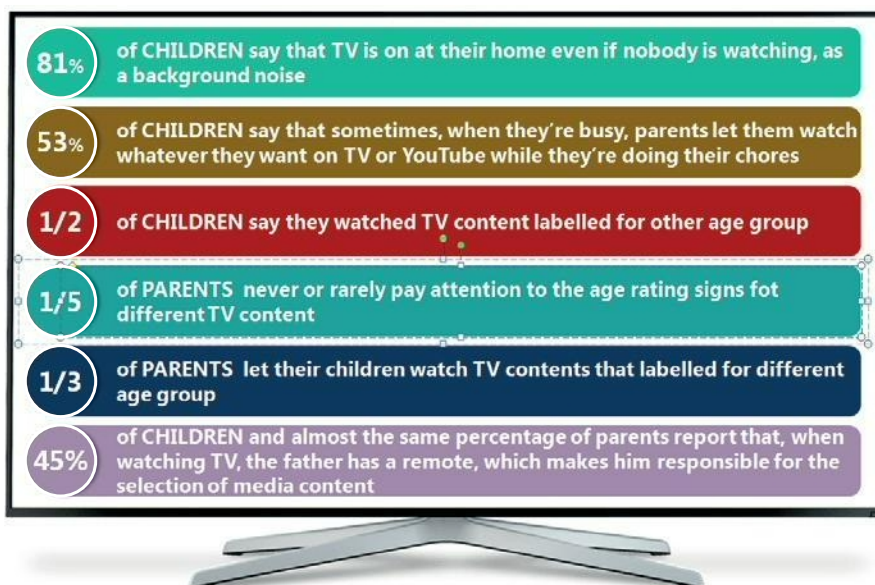
The survey focused on identifying the greatest concern in terms of the use of media by children. It was concluded that parents are primarily concerned about the contents children could be exposed to by the media. This primarily applies to the use of the internet, watching television, and mobile phones. Parents' concerns about the content their children are exposed to when reading daily newspapers, magazines or when listening to radio are negligible. Moreover, parents are not particularly concerned about the amount of time their children spend on media consumption, with only 25% of parents being concerned about the time spent in front of a TV and 17% about the time spent online.

However, the majority of parents give advice and talk to their children about inadequate content online, on TV and in video games, while every other parent talks about inadequate content in the print media and on radio on a regular basis. As a consequence, 63% of parents believe that their children would approach them if exposed to inappropriate media content. A higher percentage of children (68%) say that they would approach somebody, while every fifth child would not talk to their parents about that.

In their rules and restrictions, parents are mainly focused on the selection of the media outlets and media content. Their focus is predominately placed on what type of content their children may access on television and online. They also pay particular attention to the websites and television channels their children may access and the video games they are permitted to play. Rules and restrictions become more flexible and less frequent with the age of their children.



The fact that a greater availability of media content has not resulted in a better informed audience is absurd. Media consumers are increasingly exposed to the media and media messages without any control and almost automatically. It is therefore surprising how much confidence parents have in their children's ability to assess which online contents are appropriate for their age (59%). Slightly fewer parents (53%) believe that their children are capable of assessing which television contents are appropriate for their age. The following statistics suggest that the level of their confidence should be reconsidered



The survey shows that a majority of children and parents have not visited a theatre, cinema, museum, art exhibition, concert or sporting event in the previous twelve months.

Aware of the importance of this survey, we have made it available to all relevant institutions and NGOs.

The results of the national representative survey of media consumption by children and parents “Children, Parents and the Media”, the first one in Montenegro, are very important for defining future activities of AEM and UNICEF aimed at developing media literacy in Montenegro. They clearly indicate the necessity and importance of raising awareness of the significance of media literacy and pave the way for future activities, not only within the framework of the campaign “Let’s Choose What We Watch”, but also for the activities of other institutions.

### Training in ethical reporting

Within the framework of the media literacy campaign “Let’s Choose What We Watch”, the Agency and UNICEF organized a three-day training in ethical reporting for the media, focusing on the development of capacities of the media outlets for production of quality media contents for and by children and young people and for reporting on all issues related to children’s rights in Montenegro in an ethical way.

The training was designed primarily for news reporters, dealing with sensitive topics such as violence against children, and carried out by two Reuters journalists with extensive experience in the training of young journalists and professional experience in reporting on these and similar topics. The training focused on the topics related to good reporting and main principles of journalism, international and

national legal frameworks related to children's rights, while the practical part of the training was related to the development of journalism skills.

Interactive communication between the trainers and trainees focused on the fields related to finding the topics for reporting, research and use of open sources, ethical reporting and objectivity. In the training segment dedicated to the use of social media, the challenges and benefits of using these sources were discussed on the basis of concrete examples from the practice.

After the training, five journalists have continued to receive the support of the Reuters trainers in writing stories on pressing issues related to children's rights in Montenegro in line with the standards that were in focus during the training. The stories will be published in early 2019.

After the end of the training, the journalists recorded a promotional video talking about the ethical standards in journalism and inviting their colleagues to observe them, as well as to improve and promote ethical reporting on children in Montenegro. The same video was used to make three radio advertisements. Media outlets are broadcasting both TV video and radio advertisements. Furthermore, the video has been promoted through social networks.

## Open door days

Within the framework of the media literacy campaign "Let's Choose What We Watch", the Agency is carrying out the "Open Door Days" activity for elementary school pupils. The intention is to contribute to a better understanding of the Agency's role through its active involvement in interaction with children, informing them about the activities and competencies of the media regulatory authority, while focusing on media literacy.

This activity included the Agency representatives answering the questions and talking to more than fifty elementary school pupils. They talked about the way the media, media platforms and products can affect the development of children. The topics discussed also included the children's rights to information, and protection from the harmful influence of the media, violence in the media, internet safety, and video sharing platforms.

## NORTH MACEDONIA

The protection of minors from programmes that could be detrimental to their development is a complex process that directly involves three key factors – media, parents and the regulatory body. Given the role of the media, AVMU, in addition to drafting a bylaw (the Rulebook) that prescribes the classification system for different types of programmes and watersheds, has also organised a number of meetings, workshops and consultations with the media outlets. The objective of these events is to help TV stations understand the guidelines from the bylaw on how to categorise programmes, as well as to strengthen their awareness about the need of protecting minors and their responsibility within this context. This is in particular emphasised since experience has shown that when there is a strong commercial interest on the part of the media outlets, neither legal measures nor sanctions help in securing protection for minors from content that could be detrimental for their development.

In 2012, AVMU went a step further and dedicated one of its public sessions to the particularities of TV shows for children. With the help of the US Embassy, Sandra Calvert, PhD, Professor of Psychology at Georgetown University, USA, and co-founder and Director of the Children's Digital Media Center, held a workshop for the members of the regulatory body and the media outlets. She presented the findings from her research that focused on the impact of the media in the development and learning of the children from the youngest age, as well as the impact of media and specifically of food advertising on children's health. She showed, by using concrete examples, how the content and the characters in the TV shows for children should be adapted to the children's age because otherwise the children

mediumskapismenost.mk/home/#

Media Literacy in the Republic of Macedonia

What is media literacy? To whom is media literacy important? Why is media literacy important? Media literacy refers to which media? How to critically assess media contents?

**Study Visit for Capacity Building of Macedonian Media Literacy Network**

Exchange of knowledge, experience and practices between representatives of Macedonian and Irish Media Literacy Networks was the purpose of the study visit to Dublin for a group of stakeholders from Macedonia, which was organized by MIM during November 13th and 14th, in the frames of the project "Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX), funded by the European Union and the Council of Europe. For more information please visit

AVMS Research

What is the role of AVMS when it comes to media literacy?

The Agency for Audio and Audiovisual Media Services is legally obligated to promote media literacy in order to achieve this, the Agency connected with policy makers, media, educators and civil organizations via the Media Literacy Network of Republic of Macedonia. The Agency realizes some of the activities in cooperation with Network members or with other factors, while other activities are realized without any assistance. The cooperation and consulting process is always open.

More information about the Agency

What is Media Literacy Network?

Media Literacy Network of the Republic of Macedonia is created in order to facilitate the communication and consultation between different entities in the country working on raising the level of media literacy of all citizens. It should contribute to more frequent cooperation between the relevant factors and for better and more sustainable results from the projects.

How to become member of the Media Literacy Network?

ML Network publications and research

The Network strengthens the ML awareness

ML projects from the Network members

would have difficulties recognising the content and the storyline; the significance of the techniques used in these programmes and in what way (e.g. fast evolution of the story, audio and visual effects with frequent cuts, zooming, breaking the content into more parts, etc.); having songs and repetition for memorisation of certain verbal communications; the importance of harmonising body movement with singing for the purpose of better understanding, etc.

In addition, AVMU undertakes certain activities aimed at raising the awareness of the public, especially of parents, about their role in the protection of minors. In 2015, the regulator made an adapted video clip “Wo ist Klaus?” produced by the German organisation klicksafe.de or in Macedonian “Kade e Goran?” This activity was also a chance to emphasize the previously prepared free of charge software for parents’ control available at <http://surfajbezbedno.mk>. Provided Ministry of Information Society and Administration.

**ЗА МЕДИУМСКАТА ПИСМЕНОСТ**

Агенцијата за аудио и аудиовизуелни медиумски услуги е регулаторно тело кое има повеќе надлежности. Една од најважните е обврската да ги штити интересите на граѓаните во областа на аудио и аудиовизуелните медиумски услуги (радио, телевизии, видео по барање). Тоа го прави на повеќе начини: така што следи дали и колку радијата и телевизите ги почитуваат законите; се грижи за заштита на малолетниците од содржини што можат да им наштетат; го поттикнува развојот на медиумската писменост итн.

РЕПУБЛИКА МАКЕДОНИЈА  
Агенција за аудио и аудиовизуелни медиумски услуги

Агенцијата го подготви овој леток за да ја подигне свеста за важноста на медиумската писменост.

Повеќе информации за AVMU на:  
<http://www.avmu.mk>  
[contact@avmu.mk](mailto:contact@avmu.mk)

**КАКО КРИТИЧКИ ДА СЕ ОЦЕНУВАТ МЕДИУМСКИТЕ СОДРЖИНИ?**

За критички да се оцени некоја медиумска содржина, потребно е да се размисли:  
Од кои претпоставки се тргнува, односно што се претставува како факт?  
Дали поврзувањето на наводите е логично?  
Постои ли друго логично објаснување?  
Ком заборови се користат и зошто тому тие?  
Дали користените извори се веродостојни/релевантни?  
Ком други аргументи и извори може/треба да се земат предвид (други медиуми, енциклопедии, книги, документи)?  
Какво е вашето искуство, знаење, вредности за тоа прашање? Што мислат вашето семејство, пријатели и други луѓе?

Илустрации:  
Сцене од анимираниот филмов „Авантура низ медиумската писменост“ и „За свесноста: Што правам јас?“ на Европската асоцијација за интересите на гледачите (EAVI).

Консултирани извори:  
*Recommendation on media literacy in the digital environment for a more competitive audiovisual and content industry and an inclusive knowledge society* (2009/224/EC) <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celece:320090025>;  
Медиумска писменост за истражување на медиумската писменост, EuropeAid/129857/D/SER/MK;  
Media literacy project. <https://medialiteracyproject.org/>;  
Academic Skills Advice service: *Critical Analysis: So what does that REALLY mean?* [www.brad.ac.uk/academic-skills/](http://www.brad.ac.uk/academic-skills/)

**eavi**  
MEDIA LITERACY for CITIZENSHIP

Given the fact that the key aim of media literacy is to develop skills for critical reading of media content, a series of videos were used for teaching children how to recognise content that could be harmful for them. Within this context the adaptations into the Macedonian language of the series of three animated videos of the European Association for Viewers Interests – EAVI about the journey of a boy named Jack (in Macedonian Jove) to media literacy is very important. During the 2015–2017 period the public was initially introduced to “A journey to media literacy”, to be followed by “Awareness: What am I doing” and finally the animated film “Privacy and Tracking”<sup>52</sup>.

52 Bearing in mind the complexity of the issue of protection of minors, it is important to underline that all four videos were developed by AVMU (which provided the translation) in cooperation with the media outlets (that provided dubbing, editing, subtitling and broadcasted the videos free of charge). All four videos are available at: <http://mediumskapismenost.mk/avmu-mediumska-pismenost/>, as well on the Agency’s YouTube channel: <https://www.youtube.com/channel/UCEYyMdFonG29RzsAjeRt-rQ/> videos, accessed on December 26, 2018..

In April 2017, upon an initiative and with the support of AVMU, the Media Literacy Network was founded in North Macedonia consisting of 40 members<sup>53</sup> (public institutions and ministries, civil society organisations, educational organisations and media outlets). Some of their activities also focus on minors. At the beginning of 2018, as part of the first joint project of the Network copies of a DVD titled “Information, videos and other documents about media literacy”<sup>54</sup> were distributed to all primary schools in the country. It contains didactical materials that teachers could use to plan and teach classes in media literacy. It also contains a Manual for teaching media literacy as part of mother tongue<sup>55</sup> curricula and information about critical analysis, reading and understanding of media content is organised in five modules, accompanied by examples and useful ideas. It is available in the Macedonian, Albanian, Turkish and Serbian languages.

Bearing in mind the fact that the videos are exceptionally useful means for the transfer of knowledge, the DVD contains numerous videos (created/adapted) on various topics and are classified with the same symbols that the TV stations use for their programmes. The three videos about the journey of Jove on this DVD are also complemented by two produced in the Albanian language<sup>56</sup>. In addition, there are five videos intended for teenagers in which the young YouTuber from North Macedonia, Izabela Pan, in the role of Mediana presents the most important information about: “Media literacy”; “Life Online”; “Accurate and verified information”, “The News” and “Engaged audience”<sup>57</sup>. The last video is called “AVMS under the magnifying glass” and it elaborates the work of AVMU and its accountability to citizens<sup>58</sup>.

The Ombudsman of the Republic of North Macedonia contributed to the DVD with a copy of the Convention on the Rights of the Child, a leaflet on complaints and a video game about the rights of children. All these materials are done in a language that is understandable for children and their purpose is to familiarise minors with their rights, to teach them how to exercise those rights as well as how to submit a

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53 In October 2018.

54 This was also a joint effort in which a number of organisations contributed with their own materials. AVMU collected and edited the contents and made the DVD, and the Ministry of Education and Science distributed them to the primary schools.

55 Developed by the Macedonian Institute for Media in cooperation with the Institute for Democracy and the Bureau for Education Development, as part of the Project “Advancing media literacy in the education system”.

56 The Albanian language versions of “Journey to media literacy”, as well as “Awareness: What am I doing?” were produced by the organisation “Konedu Global” and the Metamorphosis Foundation for Internet Society with the financial support by the British Embassy.

57 The School of Journalism and Public Relations within the framework of the Project “Coalition for Media Literacy” that was implemented in cooperation with the Media Diversity Institute from London and the newspaper “Nova Makedonija” and with the support by the European Union.

58 The video was produced within the framework of the project “Efficiency, Effectiveness and Transparency Monitoring and Media Regulatory Bodies Accountability – PROformance Watch” that was financially supported by the British Embassy and implemented by Eurothink – Centre for European Strategies, NGO Info-centre, Transparency Macedonia and the Helsinki Committee on Human Rights.

complaint to the Ombudsman. These materials are available in the Macedonian, Albanian, Serbian, Turkish, Roma, Bosnian and Vlach languages<sup>59</sup>.

Together with the DVD leaflets titled “About Media Literacy”, prepared by AVMU were also delivered to the primary schools. This leaflet in very simple language provides answers to the following questions: What is media literacy?; Whom is it relevant for?; Which media does it refer to?; Why is it important?; and How to do critical evaluation of media contents?<sup>60</sup>.

There are ongoing activities in the field of media literacy targeting children, but AVMU and the other members of the Media Literacy Network have been trying to focus their efforts on different age groups and different aspects that are aimed at teaching children to protect themselves, and for adults and the media to be aware of their role in the entire process.

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59 In the original languages they can be downloaded at: <http://mediumskapismenost.mk/dru-gi-materijali/>.

60 All the materials from the DVD are available at: <http://mediumskapismenost.mk/proekti-mp-mreza/>.

## SERBIA

Study “Regulatory Authorities for Electronic Media and Media Literacy – Comparative analysis of the best European practices” was written and published on the request of REM, within the framework of the JUFREX project. The study was promoted to all stakeholders of the media community in Serbia, and it was organised by the Council of Europe Office in Belgrade, JUFREX Project and the Embassy of Finland in Serbia, on 20 December 2018.

The study analyses and indicates challenges and issues that come with living in a digitalised, hyper-technological mediated world, in which we are faced with significant amounts of information, issues of disinformation and fake news, algorithmic separation in ideological echo chambers, hate speech, clickbait journalism, and decreased trust in both mainstream media and the level of journalistic professionalism. With such a media ecosystem, it is vital to define the position of a regulatory authority for electronic media as well as its responsibilities and obligations and stress the regulator’s role in promoting and developing media literacy, one of the key skills for living in the 21<sup>st</sup> century and the answer to many questions and challenges that come with the modern era.

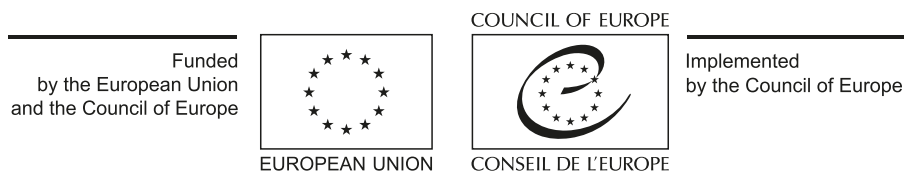
The study emphasises that a prerequisite for every democratic process is a well-informed citizen. It presents several examples of best European practices and how to engage regulatory bodies and all other relevant actors to increase media literacy, with a particular focus on the Finnish model in this area. Media education is implemented in Finland wherever there are children and youth, not only in kindergartens and schools, but also in libraries, playrooms, youth centres, even in virtual communities and digital games.

In 2016, REM Serbia made initial steps in the promotion of classification of programme content. In order for this system to be additionally clarified and adopted by programme consumers, REM, UNICEF and Association of journalists of Serbia started a campaign “The right programme for the right age<sup>61</sup>”, considering that interactivity a necessary prerequisite for safe consummation of TV content. This campaign has been envisaged as a guide and direction in the application of age classification system within the present legal framework, as well as indicators for media to consider what are not necessarily visible legal solutions, but are nonetheless important in the area of protection of minors. The campaign was followed by TV spots which were obligatory for media service providers to broadcast. This campaign was promoted in the languages of national minorities (Hungarian, Albanian, Roma, Slovakian and Romanian), via billboard campaigns and an information website, in the Latin and Cyrillic alphabets.

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61 Available at [www.tvoznake.rs](http://www.tvoznake.rs).





Programme **Reinforcing Judicial Expertise on Freedom of Expression and the Media in South-East Europe (JUFREX)**

Countries/ locations	Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia and Serbia
Funding	European Union and Council of Europe
Implementation	Council of Europe
Duration	April 2016 – May 2019
Objectives Specific objectives	<p>The overall Project objective is to promote freedom of expression and freedom of the media in line with Council of Europe standards, with a specific focus on the Judiciary in South-East Europe.</p> <p>The programme comprises one major component: judiciary/legal professionals and two additional components – regulators and media actors relating to the interconnected segments, which are of significant importance for freedom of expression and exercise of human rights, in line with Council of Europe and European standards.</p> <p><b>Main component: Support to Judiciary</b></p> <p><u>Specific objective 1:</u> To enhance the application of the European Convention on Human Rights (ECHR) and the European Court of Human Rights (ECtHR) case-law in the field of freedom of expression in the daily work of the judiciary through the interpretation and implementation of the legislation in line with European standards.</p> <p><u>Specific objective 2:</u> To strengthen the capacity of national training centres, judges’ and prosecutors’ academies and bar associations to train legal professionals on the ECHR, the case-law of the ECtHR and other European standards on freedom of expression.</p> <p><u>Specific objective 3:</u> To increase the awareness and capacity of judges, public prosecutors and lawyers dealing with freedom of expression issues on CoE standards and the case-law of the ECtHR.</p> <p><b>Additional components: Support to Regulatory Authorities and media actors</b></p> <p><u>Specific objective 4:</u> Support to media regulatory authorities To enhance the independence and effectiveness of the bodies responsible for broadcasting regulation, in line with European standards.</p> <p><u>Specific objective 5:</u> Training of media actors To promote rights and responsibilities of journalists and other media actors to develop professionalism, responsibility and respect of ethical rules based on the ECtHR case-law and other CoE legal instruments.</p>

Partners	All activities are implemented in consultation and co-operation with the relevant public authorities and media professionals in the beneficiary countries/locations. Main partners are Judicial Academies/Centres, Bar Associations, Regulatory Authorities for Electronic Media, Associations of Journalists and media outlets.
Target groups	Judges, prosecutors, lawyers, employees of media regulatory authorities, journalists, other media actors and students.
Final beneficiaries	Citizens and society as a whole.
Expected results	<p><b>Support to Judiciary</b></p> <p><b>ER/SO 1:</b> Domestic judgements reflecting application of Article 10 and ECtHR case-law are increased;</p> <p><b>ER/SO 2:</b> Training curricula on Article 10 are developed and capacity of the national training institutions with regard to freedom of expression and the media are improved;</p> <p><b>ER/SO 3:</b> Regional forum of legal professions is established and regularly meets to exchange good practices and provide mutual support for the development of domestic case-law in line with ECtHR case law on media issues, namely Article 6, 8 and 10.</p> <p><b>Support to Media Regulatory Authorities</b></p> <p><b>ER/SO 4:</b></p> <ul style="list-style-type: none"> <li>• Studies on independence and effectiveness of the regulatory authorities continue to be provided upon request of the national authorities;</li> <li>• Regulatory authorities employees' professional capacities are strengthened;</li> <li>• Regional co-operation between regulators is developed; exchange of good/bad practices is established.</li> </ul> <p><b>Training of Media Actors</b></p> <p><b>ER/SO 5:</b> Structured dialogue between media actors, self-regulatory bodies, judiciary, politicians, parliamentarians and human rights defenders is established at national and regional level. Media actors are aware of their duties and responsibilities and their professional capacities are strengthened.</p>
Main activities	Expert meetings, assessments, workshops, trainings and awareness-raising activities, seminars, round tables, regional forum and networks, curricula development, training of trainers, studies, publications, study visits, expert opinions, lectures for students.



In today's unprecedented connected world, the majority of information is delivered to us by the media, in many forms. Media help us learn, understand, stay connected to other people and to the world in general, and engage in entertainment related experiences. Whether we like it or not, media have an extremely important role in the lives of children. From birth, children are surrounded by the media – media and communication platforms and content are part of their environment, their family life, their fun and play time, their learning habits and social skill development.

The aim of this publication is to contribute to a wider understanding of the concept of protection of minors from harmful content in audiovisual media services, the role of national regulatory authorities in this area and the need to involve various stakeholders providing a safe environment, both offline and on-line, for the development of children and minors.

ENG

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

[www.coe.int](http://www.coe.int)

The European Union is a unique economic and political partnership between 28 democratic European countries. Its aims are peace, prosperity and freedom for its 500 million citizens – in a fairer, safer world. To make things happen, EU countries set up bodies to run the EU and adopt its legislation. The main ones are the European Parliament (representing the people of Europe), the Council of the European Union (representing national governments) and the European Commission (representing the common EU interest).

<http://europa.eu>

