

Memorandum on the State of Press Freedom in the Republic of Moldova

May 3, 2016 – May 3, 2017

Media activity in Moldova over the period of May 3, 2016 – May 3, 2017 denotes a clear tendency to regress. In Freedom House’s annual “Nations in Transit” report, published on April 5, 2017, the state of independent media retained its low score of 5 for the sixth year in a row; Moldova’s overall democracy score in 2016 was worse than in 2015. According to the Reporters Without Borders’ rating of April 26, 2017, Moldova also lost four positions in comparison with the previous year, ranking the 80th out of 180.

The concern of the organizations monitoring freedom of the press around the world is shared in Brussels. Thus, in December 2016 the Heads of Missions of EU Member States in our country issued a joint statement reminding Moldova about the “universal and European standards of democracy and human rights, which it has obliged to honor,” including pluralism and diversity of the media.

The challenges faced by the media in Moldova have been listed in the [Roadmap of the second Media Forum](#)¹ in December 2016 and in the [Media Situation Index for 2016](#)² published in February 2017.

Media monitoring reports clearly show that old problems, such as media concentration or unfair competition, still exist, and that they are now accompanied by new forms of limiting access to information, caused by abusive interpretation of the Law on Personal Data Protection and by attempts to control the country’s online media. Other problems that have intensified and affected the work of the media in the past year include: the involvement of politics into the work of the broadcasting regulator; the seizure of major and influential media – mainly broadcasting outlets – by politicians; the imposition, de facto, of the political agenda on a lot of media outlets; the use of the media for political purposes; and the imitation of cooperation between politicians and independent media.

This situation occurred despite the fact that the Working Program of the current Government for 2016-2018 includes a separate chapter dedicated to the media, which lists ten provisions, including “Elaboration of a National Media Development Concept on the basis of strengthening pluralism and freedom of expression”; “Adoption of a new Broadcasting Code”; and “Creating favorable conditions for the development of advertising”.

Below, we will examine in detail only some of the worst problems that marked the “journalistic year” of May 3, 2016 – May 3, 2017 and influenced the work of the media.

Legislation remains imperfect

The bill amending the Law on Access to Information, aimed to resolve some issues noted in particular by investigative journalists, such as formalistic responses from the officials, responses avoiding the question, or unreasonable long timelines for providing answers to information requests, was voted on in the first reading in July 2016. Since

¹ <http://mediaforum.md/upload/foaie-de-parcurs-pentru-dezvoltarea-mass-mesiei-din-rm-2016pdf-5891e98736791.pdf>

² <http://media-azi.md/ro/publicatii/indicele-situa%C8%9Biei-mass-media-ismm-din-republica-moldova-%C3%AEn-2016>

then, it has not been returned to. The only legislative act amended was the Contravention Code, Article 71, stipulating a dozen-fold increase in the fines for violations of the Law on Access to Information.

Although the journalistic community and civil society have insisted on the adoption of a new Broadcasting Code, as stipulated in the Working Program of the Government, as of May 3, 2017, Moldovan media were still working according to the old Code, which has been repeatedly “patched up.” In fact, in July 2016 the Parliament voted on a new draft of the Code in the first reading, but, since it had been developed back in 2011 and did not include provisions on digitization, advertising, or combating propaganda, it was clear from the very beginning that it would need to be reviewed and updated. Meanwhile, on March 30, 2017, the Parliamentary Commission on the Media proposed that the examination of the new Code “be postponed till a later date,” and on March 31, 2017, the Parliament announced the creation of a *working group to bring the media legislation in line with the European standards and, as a priority, to develop a new Broadcasting Code.*

The broadcasting legislation still does not contain specific provisions regarding the development of business in the media. The provisions of the current Broadcasting Code (Article 66) are not enough to ensure fair competition on the media market and on the advertising market. There are no special provisions to limit the concentration of the audience. The economic legislation is not stimulating the media business, and inadequate regulation and imperfect management of this area by the Broadcasting Coordinating Council (BCC) has stimulated greater concentration of media ownership instead of discouraging it.

Concentration and political polarization in domestic broadcasting

On March 31, 2017, after the third meeting of the EU-Moldova Association Council, which assessed the progress achieved in the implementation of the Association Agreement, the European Union expressed its concern about the situation in Moldovan media, in particular with regard to the phenomenon of media ownership concentration and its polarization.

Indeed, the adoption of Law No. 39, which provides for a reduction from five to two in the number of licenses held by a media owner, has not radically changed the situation in terms of media concentration, as along with these amendments a provision was introduced into the Broadcasting Code granting owners the right to retain their licenses until the expiration of their validity. In March 2017 the Parliament returned to this issue and removed this provision, and since April 14, 2017, when the Law came into force, holders of more than two broadcasting licenses must give up the extras and retain no more than two.

Although the Parliament appeared to intend to reduce concentration in the media, in 2016 new licenses were granted, which did not contribute to demonopolization of broadcasting. For example, at the end of the previous year the BCC granted a license to the channel “Exclusiv TV,” which became the third license granted to the representatives of the Party of Socialists of Moldova and thus implicitly to President Igor Dodon. On February 29, 2017, the ITV channel started broadcasting, whose general director was reported by many media to be close to the Party of Socialists. Previously, she ran the online TV channel TSN, also controlled by socialists.

Dissemination of foreign propaganda

The information space has remained fragile to the propaganda coming from the East, and recent modifications to the Broadcasting Code – obliging broadcasters to air eight hours of domestic products daily, six of which in prime time – put broadcasters in a difficult situation scrambling for resources, rather than solve the problem of Russian disinformation. It should be noted in this context that the majority of foreign media in Moldova are Russian, the products of channels politically controlled by the Russian Federation, and the language of broadcasting is usually not the state language; namely, it is Russian.

The Parliament has repeatedly expressed its concern regarding the torrent of Russian propaganda. Despite this, some of the new broadcasting licenses issued by the BCC in 2016 do not contribute to the security of the country's information space. At the same time, particularly concerning is the increasing prominence of editorially unbalanced shows produced by Russian news agencies or agencies controlled from Moscow, propagating anti-European and anti-Western content, in the domestic broadcasting space – and especially on some radio stations.

The recent monitoring of Russian TV channels retransmitted in Moldova, conducted by media associations, provided the proof that the BCC broadcasting license granting policy is deficient. It clearly showed that a large part of the retransmitted content is propagandistic and hostile to the interests of the European vector of our country.

Fragility of media independence

All monitoring reports produced in the period of May 3, 2016 - May 3, 2017 showed significant interference of politics with the work of the media, affecting the editorial policy of media outlets. The effect of such interventions may be observed daily, and it was especially evident during the presidential election campaign in the autumn of 2016, when a disproportionately large share of the media were deeply politically biased, reflecting the preferences and even political commitments of the outlets' owners or managers. Consequently, a significant part of the media failed to provide Moldovan citizens with accurate information, and manipulation and misinformation of the public opinion through television channels owned or controlled by politicians had a decisive influence on the election results.

Neither the legislation nor the state of the economy contributes to the financial independence of the media, on which their editorial policy depends. Both on the media market and on the advertising market the dominant positions are occupied by a handful of actors, leading to unfair competition, but the responsible regulatory bodies de facto accept the current status quo. The legislation does not ensure real competition between the media for access to commercial advertising. The media working for the money of political parties are in the best financial situation, but editorial independence in their case remains an impossible goal. Thus, one may speak of true editorial independence only with reference to the outlets whose work is supported by donors through project-based funding.

Restriction of access to information

Despite some amendments to the legislation, the overall situation regarding access to information has not significantly improved. Moreover, investigative journalists in particular report a worsening environment due to the fact that some electronic databases became restricted after having been briefly opened up; access to other

public data resources has been limited through a doubled fee. The media's appeals to the responsible government bodies to reduce the access fee for public data have been ignored. In addition, officials continue to provide formalistic responses to editorial inquiries, avoid answering specific questions, and can take unreasonably long time to reply to information requests.

Drawbacks, which have become systemic, came into sight when journalist Mariana Rata of the investigations portal www.anticoruptie.md was summoned by the Prosecutor's Office in January 2017. Former police commissioner of Chisinau municipality Vladimir Botnari filed a criminal complaint on the grounds that the journalist accessed and disseminated, without his consent, personal data referring to him and his family members. A criminal investigation was not initiated, but the fact itself brought into view a new phenomenon faced by an increasing number of journalists in Moldova, especially investigative reporters – namely, gaps in the legislation on personal data, which allow for its frivolous interpretation, and restriction of access to information.

Mariana Rata's caused a series of large-scale solidarity actions in the media, from public debates on this issue to the campaign in which outlets published news and reports without giving the names or photographs of the people involved. This way they wanted to draw attention to the problem of the so-called "depersonalization" demanded from journalists by those who invoke the argument of "protecting personal data." The campaign demonstrated that information of public interest cannot be depersonalized, but the problem still hangs over the heads of journalists like a sword of Damocles. In addition, there is still a risk that the quality of journalistic investigations in Moldova may decline as a result of the "Regulation on Publishing Judgments on the Portal of Courts" issued by the Ministry of Justice, which, despite the arguments above, directly provides for the depersonalization of court judgments.

It should also be mentioned that in April 2016, following repeated appeals by media NGOs and their publicity campaign, journalists' access to the Parliament's plenary meeting room was restored. However, today it is only possible under more restrictive conditions than previously, as this process is controlled by the officials.

The economic situation of the media

The economic situation in the country does not facilitate the financial independence of the media. The dominant position on the broadcasting market of the companies belonging to the leader of the Democratic Party is reflected in the official documents of the BCC, but the problem is of no concern for the public authorities – the Parliament, the Broadcasting Coordinating Council, or the Competition Council of the Republic of Moldova.

Print media find it difficult to survive in the increasingly precarious economic conditions, especially since the State enterprise "Posta Moldovei" is still the only distributor of print media with national coverage, providing services of poor quality to independent newspapers and refusing to discuss conditions to improve their delivery. In addition, last year newspapers faced a new distribution fee, which was imposed without prior negotiations or approval through a mutual agreement with the outlets. At the same time, "Posta Moldovei" distributes political parties' newspapers; the conditions of these agreements remain unknown, since access to information on the work of this State institution is restricted, particularly with regards to its budget.

The period of May 3, 2016 – May 3, 2017 was marked by the appearance/disappearance of media outlets, both national and regional, and by the changes of formal or shadow owners of those media outlets. This phenomenon, which is natural for a market economy, in Moldova's raises a number of questions – especially if the breakup of a media outlet occurs as a result of the disappearance of its political donor from the public space or when the change of the owner immediately triggers a change in editorial policy. A vivid example is the case of “Noroc” radio and television, which, according to media reports, were taken over by persons close to the Liberal Party.

The most resonant cases were those of “Jurnal TV”/“Jurnal FM” stations. Formally, the “Jurnal Trust Media” group announced the change of its broadcast schedule due to the fact that the owner of the building where they rented offices for almost seven years ordered them to leave the premises within 35 days. According to the trust's management, this demand was in fact caused by political reasons and the pressure of officials dissatisfied with the outlet's editorial policy. “Jurnal TV”/“Jurnal FM” returned with a new broadcasting schedule almost two months later, thanks to a grant from the European Endowment for Democracy (EED). However, they were forced to find new offices and work with a smaller team and on a more modest broadcasting schedule.

The EED will also support the rebranding and re-launch, scheduled for spring-summer of 2017, of the former channel TV 7, which was until recently owned by Chiril Lucinschi, an MP representing the Liberal Democratic Party. TV 7 ceased broadcasting in early 2017 due to financial problems that arose after it lost the right to retransmit the Russian NTV television broadcast on the territory of Moldova to persons close to Igor Dodon. All this is happening on the background of Prime Minister Pavel Filip's recent invitation to foreign businesses to invest in Moldovan media, which he made through an editorial published on the www.euractiv.com portal.

Other major obstacles

Along with the danger of legal harassment (during the monitoring period a number of Moldovan outlets were brought to court, being charged for defamation, damage to honor, dignity, and professional reputation³), physical or verbal attacks on journalists increased, from attacks on or detentions of reporter crews covering various protest actions, such as Today.md or Gagauzinfo.md, to defamatory posts in social networks, aimed at intimidating journalists and denigrating the outlets they work with.

In this context, a new phenomenon has arisen – clones of media publications' Internet-versions, which steal their content and mislead media consumers. The first such attack was reported by the “Ziarul de Garda” newspaper, soon followed by the Deschide.md portal. Recently, Vladimir Soloviov, manager of the Russian-language portal Newsmaker.md, reported that he had been followed for some time by an unknown car believed that it was directly connected to his work.

In fact, in the recent years, political actions have deliberately fostered a climate that is hostile to independent media, media NGOs, and journalists who criticize the authorities. The so-called bloggers, many of whom are members or even leaders of political units of the governing party, assault independent journalists and media NGOs that have proven their consistency over time, by using denigrating terms, lies, and

³ In November 2017, the Party of Socialists filed a lawsuit against RISE Moldova for the investigation *Dodon's Money in Bahamas*. In July 2017, the chairman of the Parliament sued Jurnal TV, demanding 30 thousand Euros moral damage.

verbal attacks. In addition, the authorities more and more often publicly opine that the media are no longer credible and that the entire press field is compromised, and that for this reason responding to journalistic investigations and to media coverage of cases of corruption makes no use.

Recommendations for the authorities

The Parliament and the Government of the Republic of Moldova:

- To implement de facto the media-related provisions of the Government's Working Program for 2016-2018;
- To give up the vicious practice of using the media for political or personal purposes and engaging journalists into the settling of political party accounts;
- To responsibly and actively examine the major obstacles faced by the media, specified in the Roadmap of the Moldovan Media Forum 2016, and to take concrete measures to solve them;
- To urgently adopt the new Broadcasting Code, which would bring a modern vision into Moldovan broadcasting, in accordance with international and European standards on the media.

The Broadcasting Coordinating Council:

- As a guarantor of public interest in broadcasting, to make more strict decisions on granting broadcasting licenses, in order to avoid contamination of the information space by foreign or domestic broadcasters;
- To ensure monitoring of the broadcasting outlets retransmitted from the Russian Federation and the outlets airing shows produced by Russian news agencies in terms of their compliance with the national broadcasting legislation, and to apply sanctions in case of violations or deviations.

Public institutions:

- To ensure the safety of journalists and their access to information of public interest, which are the key conditions for the media to contribute, by playing its professional role, to building a free and democratic society in Moldova.

Independent Journalism Center
Association of Independent Press
Association of Electronic Press
Press Freedom Committee
Union of Journalists from Moldova
"Acces-Info" Center
Association of Independent TV Journalists
Center of Journalistic Investigations