

**Dismissing the members of the Observers Council
of the Regional Public Broadcasting Institution (RPBI)
the company „Teleradio-Gagauzia”**

Case Study

Introduction

On 27.07.2006, the Moldovan Parliament adopted the Moldovan Broadcasting Code (henceforth – *the Code*), which was published in Monitorul Oficial al Republicii Moldova no.131-133 of 18.08.2006 and entered force on that day. Working out and adopting *the Code* was meant to adjust the national broadcasting legislation to the European and international standards.

Art.2 let. d) of the Code defines the term „a public broadcaster” as „*a national or a regional broadcasting institution, with the status of a legal entity of public law, servicing the society, editorially independent, the activity of which is supervised by the society*”. The regulations concerning the legal status of the Moldovan public broadcasters are detailed in Chapter 7, “Public Broadcasters”, of the Code (art.50-65). Most of the specifications deal with the national broadcaster „*Teleradio-Moldova*”.

Art.65 of Chapter 7 also contains specifications concerning the legal status of regional public broadcasters: „*(1) The regional public broadcaster, the company “Teleradio-Gagauzia” functions in the Autonomous Territorial Administrative Unit Gagauzia, in conformity with this Code, and with the decision of its People's Assembly. (2) The regional public broadcaster will function in the districts on the left bank of the Nistru river, after the settlement of the Transnistrian problem, and following a decision by the regional public authorities.*”

In conformity with art.65 para.(1) of the Code, Gagauzia's People's Assembly passed the Broadcasting Law no.66-XXVIII/III of 10.07.2007 of Gagauzia (henceforth – *the Law*), which was published in *Buletinul documentelor oficiale al Gaăgăuziei no.5-6 of 27.07.2007*¹.

Findings

In order to institute the Observers Council of „Teleradio-Gagauzia”, in conformity with art.33 from the Law, Gagauzia's People Assembly adopts *Decision no.257-XXVIII/III of 20.07.2007 regarding certain measures to apply the Broadcasting Code no.66-XXVIII/III of 10.07.2007 of Gagauzia*², obliging the Presidium of the People's Assembly to issue, within 1 month, a public invitation to candidates to the positions of members of the Observers Council (OC) of „Teleradio-Gagauzia”.

The invitation to attend the contest for the positions of members of the Observers Council was published on 27 July 2007³.

Later, on the basis of the acts mentioned above, the members of Observers Council of „Teleradio-Gagauzia” were elected.

On 10 July 2008, Gagauzia's People's Assembly adopted *Decision no.29-III/IV on dissolving the Observers Council of the regional public broadcasting institution, the company „Teleradio-Gagauzia”*⁴.

¹ Закон №66-XXVIII/III от 10.07.2007 АТО Гагаузия «О телевидении и радио» (Бюллетень официальных документов Гагаузии nr.5-6 (66-67) от 27.07.2007г.).

² Постановление Народного Собрания Гагаузии «О некоторых мерах по реализации Закона АТО Гагаузия «О телевидении и радио» №66-XXVIII/III от 10.07.2007г. (Бюллетень официальных документов Гагаузии nr.5-6 (66-67) от 27.07. 2007г.).

³ Бюллетень официальных документов Гагаузии nr.5-6 (66-67) от 27.07.2007.

Provisions from the Moldovan Broadcasting Code

- art. 65 alin.1: „*The regional public broadcaster, the company “Teleradio-Gagauzia” functions in the Autonomous Territorial Administrative Unit Gagauzia, in conformity with this Code, and with the decision of its People's Assembly .*

Provisions from the Broadcasting Law no.66-XXVIII/III of 10.07.2007 of Gagauz-Yeri:

- art.33 para.(4): „*The mandate of a member of the Observers Council lasts 4 years*”;
- art.34 para.(2) establishes the situations of incompatibility with the function of a member of the Observers Council of the RPBI: „*The function of a member of the Observers Council is incompatible with: a) the status of a member of the People's Assembly of Gagauzia, of a member of the Executive Committee of Gagauzia; b) the capacity of an owner, direct or indirect, of stocks or shares in the equity of companies working in areas which may be in conflict with the capacity of a member of the Observers Council; c) the status of an employee of the Company; d) the capacity of a political party member.*”;

- art.36: „*The vacancy of the position of a member of the Observers Council intervenes in case of: a) resignation; b) mandate expiry; c) condemnation by final court verdict; d) loss of the Moldovan citizenship; e) abandoning one's residence in Gagauzia's territory; f) repeated and unjustified absence from the sessions of the Observers Council.*

Provisions from the People's Assembly's decision:

- to dissolve the OC of „Teleradio-Gagauzia”;
- the presidium of the People's Assembly of Gagauz-Yeri shall make a public invitation to candidates to the positions of members of the OC.

The *Information Note to Decision no.29-III/IV on dissolving the Observers Council of the regional public broadcasting institution, the company „Teleradio-Gagauzia”* has information on the People's Assembly constituting *the Observers Council of the RPBI „Teleradio-Gagauzia”* with certain deviations from *the Law*: appointing a OC member not having residence in Gagauzia; reorganizing „Teleradio-Gagauzia” through liquidation, although *the Law* provided to transform it, etc. *The Information Note* also contains information on violating the *Law* by the *Observers Council of „Teleradio-Gagauzia”*: offering exaggerated salaries to the management of „Teleradio-Gagauzia”, without any legal justification; the OC of „Teleradio-Gagauzia” not exerting its legal duties, etc.

First, we should mention that Teleradio-Gagauzia's OC was constituted by the People's Assembly through the Broadcasting Law from 10.07.07. Under these circumstances, the decision to dissolve the institution can be taken only by the People's Assembly, by modifying or abrogating the Broadcasting Law.

The People's Assembly may not dismiss the OC members through a simple decision, as the Observers Council was instituted by a law.

Although *Decision no. 29-III/IV* has the title „On dissolving the OC”, its text does not clearly indicate that the OC of the regional company „Teleradio-Gagauzia” was not dissolved, only its members were dismissed.

Thus, the decision of the People's Assembly is legal from the procedural viewpoint, however it has no justification as to the dismissal of all the members of OC. No argument shown in the *Information Note to Decision 29-III/IV* is plausible, even more, they represent interferences in the work of the company and its OC.

⁴ Постановление Народного Собрания Гагаузии «О расформировании Наблюдательного Совета региональной общественной вещательной организации Компании «Телерадио Гагаузии» №29-III/IV от 10.07.2008г.

The sole reasons from the Info Note worth to be considered to justify the decision would be as follows: the OC does not have financiers and one member does not have his residence on the territory of Gagauz-Yeri.

Concerning the first reason, we mention that the lack of specialists in finances was accepted by the People's Assembly when appointing the OC members, and by adopting Decision no. 29-III/IV, the OC's stability was hampered and, thus, they set at doubt the efficiency of the People's Assembly's work. Besides, this reason does not justify in any way the dismissal of all the OC members.

Concerning the second reason, the Info Note reads that a OC member does not have his residence in Gagauzia, not the fact that he does not live on the territory of the autonomy. Anyway, this could lead to dismissing only one member, not all the OC members.

Conclusions

- Gagauzia's People's Assembly did not dissolve the Observers Council of „Teleradio-Gagauzia”, but only dismissed the OC members;
- Gagauzia's People's Assembly dismissed the OC members unjustly;
- Gagauzia's People's Assembly issued a decision that may be canceled.
- The OC members have the right to ask a court to cancel Decision no. 29-III/IV because it is actually illegal.

Suggestions

- Gagauzia's People's Assembly is to ground its decision taking into the principles of checks-and-balances, the editorial independence and fairness;
- Gagauzia's People's Assembly should cancel its Decision no. 29-III/IV, to avoid its discredit in the court.