

**Soros Foundation-Moldova**  
**Mass-Media Program**

**Electronic Press Association from Moldova**

**“Monitoring the enforcement of the Moldovan  
Broadcasting Code”**

**Final Report**

**(periods: 01 April 2008 – 31 May 2009, 01 July – 31 August 2009)**

**Chişinau, 2009**

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## INTRODUCTION

The project "Monitoring the enforcement of the Moldovan Broadcasting Code" was launched on April 1, 2008 and represents a continuation of carrying out the objectives pursued in a project supported by the Soros Foundation-Moldova envisaging the mode in which the provisions of the broadcasting law are enforced.

The continuation of the project was also dictated by the need for essential changes in the sector of Moldovan broadcasting, especially since the experience the project experts have acquired shows that the main actors commit severe deviations from the legal frame, conditioned, on the one hand, by the strong and obvious interference of the political and economic factors into the entire broadcasting sector, and, on the other hand, by the minor capacity of the civil society to curb that influence. The deviations from the law, and also its faults were repeatedly stated by most of the actors, domestic and foreign, which are interested in the development of the Moldovan broadcasting as an indispensable element promoting the democratic values and the European integration of the Moldovan society.

10 non-governmental organizations dealing with media and human rights, university professors, lawyers and media professionals have been involved in carrying out this project, which, under the aegis of the Electronic Press Association, on the basis of the acquired experience, supervised the way in which the broadcasting legislation is enforced in Moldova, as a public control, notifying the public about the infringements committed in this sector, especially the grave ones.

As important and relevant elements of this mechanism, they established: monitoring the compliance of the work of the Broadcasting Coordinating Council (BCC), of the Observers Council (OC) of the National Public Broadcasting Institution (NPBI) the Company "Teleradio-Moldova" and of the administration bodies of the NPBI, of the Observers Council (CO) of the Regional Public Broadcasting Institution (RPBI) the Company "Teleradio-Gagauzia" and of the administration bodies of the RPBI to the national law and the recommendations of the Council of Europe (CoE); selective analysis of the programs of the NPBI and of the RPBI (case studies); the analysis of the behavior of the above-mentioned actors during the electoral campaigns in the parliamentary elections in 2009. After the early elections for a new parliament were called, APEL had the initiative to prolong the project for the period 1 July– 31 August 2009.

In running the project, the monitoring team: compiled case studies; performed selective monitoring sessions of the news produced by the radio and TV stations of the NPBI and the RPBI, and, during the electoral races – the full monitoring of the programs related to electoral issues; watched, through specially accredited persons, and systematized all the public activities of the BCC and of the OC of the NPBI; has taken stance as to reprehensible case in the sector drafting and signing joint statements with the NGOs participating in the project. The results of the work were presented in 14 case studies; were communicated at 8 news conferences, through communiqués and statements in media; were notified to decision-making factors from Moldova and to the international bodies accredited in Chişinău and are posted on APEL's web site: [www.apel.md](http://www.apel.md).

With this project, APEL has participated in the Civic Coalition for Free and fair Elections – Coalition 2009. The case studies and monitoring reports performed in the project served as subjects for discussion and analysis at the conferences and workshops held with the support of the Council of Europe in Chişinău ("National and European Ethical Standards in Broadcasting", 23-24 September 2008; "The independence, functions and responsibilities of the Observers Council of the National Public Broadcasting Institution, the company "Teleradio-Moldova", 6-7 November 2008; "The independence and functions of broadcasting regulating authorities", 12-13 November 2009) and in Comrat ("The independence, functions and responsibilities of the Observers Council of the Regional Public Broadcasting Institution, the company "Teleradio-Gagauzia", 03 March 2009; "Training at "Teleradio-Gagauzia" on media's responsibilities and professionalism", 4-5 March 2009.) The results of monitoring the program services of the NPBI and of the RPBI during the electoral campaigns for the ordinary and early parliamentary elections from 2009 were presented to Coalition 2009 at round tables attended by the civil society and media in Chişinău, in Comrat (twice) and in Cahul.

During the project, the monitoring team has presented four intermediary public reports and a final one (this one), which represent a generalization of the results of monitoring the enforcement of the Broadcasting Code, which highlight the degree of compliance of the actions undertaken by the BCC, the OC of the NPBI and by the NPBI administration, by the OC of the RPBI and by the RPBI administration to the legal stipulations and assess the real and potential impact (of the actions undertaken) particularly on broadcasters, and on the development of the broadcasting sector, in general.

The team implementing the project showed its availability to cooperate with the broadcasters and the authorities responsible for enforcing the law in order to set out democratic principles for the functioning of the Moldovan broadcasting. The observers consider that, during the unfolding of the project, the establishment of differentiated relationships with the monitored authorities and institutions has been achieved. It's worth remarking the efficient contact with the BCC, the OC of the NPBI "Teleradio-Moldova", with the RPBI administration of "Teleradio-Gagauzia", which has led to the successful achievement of the

project objectives. Somewhat more special were the relationships with the administration of the NPBI "Teleradio-Moldova", which showed itself reluctant, and sometimes questioned the results of the performed monitoring. Anyway, in most of the cases, the monitored subjects have adequately reacted to the case studies, and later have tried to eliminate some of the found drawbacks and inadvertencies. During the entire unfolding of the project, the results of the monitoring have been in the spotlight of the public opinion getting reactions in electronic and print media.

The team implementing the projects has been compiled from experts and consultants delegated by the Independent Lawyers Association, the Independent Press Association, the Independent TV journalists Association, Acces-Info Center, the Independent Journalism Center, the Press Freedom Committee, the Committee for the Defense of Human and Professional Rights, OWH-Studio, Lawyers for Human Rights, the Journalists Union from Moldova and the Electronic Press Association.

This report, compiled within the Project "Monitoring the enforcement of the Moldovan Broadcasting Code", realized with the support of the Soros Foundation-Moldova, contains 3 chapters which correspondingly refer to the work of the BCC, to the work of the OC of the NPBI and the OC of the RPBI, the work of the NPBI "Teleradio-Moldova" and the work of the RPBI "Teleradio-Gagauzia", watched through the prism of the requirements of the new legislation in the sector, with the respective conclusions, recommendations and suggestions.

## **Chapter I. THE ENFORCEMENT OF THE PROVISIONS OF THE BROADCASTING CODE BY THE BROADCASTING COORDINATING COUNCIL**

### **1.1 General frame**

The project implementing team has monitored the mode of enforcing the provisions of *the Moldovan Broadcasting Code* by the regulating authority, including the degree to which *the Broadcasting Coordinating Council* complies with the provisions and the spirit of the Code.

The monitoring envisaged, especially, those three general categories of powers that the BCC has under the Code: *a)* regulating the relationships within the sector; *b)* issuing licenses to broadcasters and re-transmission authorizations to services distributors; *c)* supervising the mode in which the broadcasters observe the law and the license conditions, the observe of the law by the services distributors.

During the year 2009, the project implementing team paid enhanced attention to the examination of the legality, timeliness and plenitude of the work of the BCC, in public sittings, during the campaign periods related to the two parliamentary elections.

The monitoring team has also examined the mode in which the broadcasting regulating authority has incurred the transparency of its own work, has manifested responsibility to the public and willingness to cooperate with the civil society.

In order to achieve the set objectives, the monitoring team delegated a representative, who has attended all the public sittings of the BCC to get informed from the first source. The gathered data have served as a basis for a series of case studies as part of the project and for the proper analysis of the BCC's work.

### **1.2 Legal provisions**

As pillars for the analysis of the BCC's work, and, later, for wording conclusions, the following provisions of the Broadcasting Code have served:

- „ art.23 para.(1), (3)-(4), (7) and (9):

„ (1) *The broadcasting licenses to broadcast program services in terrestrial radio electrical mode are issued by the Broadcasting Coordinating Council on a contest basis.*

(3) *The broadcasting license is issued by the Broadcasting Coordinating Council according to the following conditions: a) issuing the broadcasting license will result in the subsequent observance of the objectives established in the Strategy of territorial coverage with program services in accordance with the National Radioelectrical Frequencies Plan; b) issuing the broadcasting license will correspond to the principle of insuring the pluralism in the broadcasting sector, excluding the possibility of creating prerequisites to institute a monopoly and ownership concentration in broadcasting and in the media in general, taking into consideration the degree to which the extant licensed broadcasters already correspond to those requirements; c) the decision on issuing the license shall be taken only by taking into account the real financial viability of the applicant, the degree to which his/her proposals correspond with his/her financial possibilities; d) on issuing the broadcasting license, priority shall be granted to the applicants offering own, local program services and European works.*

(4) *The procedure and the conditions of issuing the broadcasting license shall be published in Monitorul Oficial of the Republic of Moldova, on the web-page of the Broadcasting Coordinating Council.*

(7) *During the period provided for submitting applications, the Broadcasting Coordinating Council shall publish the concept of the program services proposed and the data on the applicants.*

(9) *Following objective and impartial examination, according to the criteria envisaged in para.(3), of the contestants' applications, the Broadcasting Coordinating Council shall designate the contest winner;*

- art.37 para.(1): „*the Broadcasting Coordinating Council supervises the application and the observance of the provisions of this Code;*”
- art.39 para.(2): „*The Broadcasting Coordinating Council is the representative and the guarantor of the public interest in the broadcasting sector, the authority responsible for the implementation and observance of this Code, of the international treaties related to broadcasting to which the Republic of Moldova is part;*”
- art.40 para.(1) let.a), d), f) and l), para.(3)-(4):

„(1) *The Broadcasting Coordinating Council has the following competences: a) supervises the observance of the way in which public and private broadcasters carry out the obligations they committed to in the broadcasting license, under the law and observing the legal provisions; d) monitors, under the conditions of para.(1) let. b), the content of the program services offered by broadcasters and the offer of program services provided by service distributors, on a regular basis and as often as the Council considers necessary or is notified concerning the non-observance by the broadcaster or the service distributor of the legal provisions, of the regulations in the sector, or of the commitment written in the broadcasting license; f) adopts the Broadcaster Behavior Code with regards to the concept and the audiovisual communication of program services in conformity with this Code and the European standards; l) issues program services broadcasting licenses and re-transmission authorizations;*

(3) In exerting its competences, the Broadcasting Coordinating Council adopts compulsory decisions entering force on the date they are published in Monitorul Oficial al Republicii Moldova.

(4) All the decisions of the Broadcasting Coordinating Council are reasoned. The decisions, the reasons including, are published in Monitorul Oficial al Republicii Moldova and on the web-page;"

- art.41, para.(1) let.f)-g):

„(1) In its capacity of a guarantor of the defense of the public interest in the area of audiovisual communication on democratic principles and of the rights of the program consumer, the Broadcasting Coordinating Council is obliged to insure:

f) the transparency of broadcasting media; g) the transparency of its own activity;"

- art.49 para.(1)-(5):

“(1) The activity of the Broadcasting Coordinating Council is supervised by the Parliament, by debating on the annual report of the Council.

(2) The annual report of the Broadcasting Coordinating Council is submitted to the Parliament till February 1.

(3) In the situation in which the Parliament rejects the annual report of the Broadcasting Coordinating Council, it is obliged, within 30 days, to present a program of concrete measures to remove the signaled shortcomings.

(4) When the BCC's report is presented, the relevant parliamentary committee presents a note on the legality of the BCC's activities, on the correctitude and transparency of financial operations.

(5) In carrying out its mission in the public interest, the BCC is obliged to publish its quarterly reports on the way in which it exercises its attributions.

- art.65 para.(1) and (2):

“(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.

art.68 para.(8): “(8) The broadcasting licenses issued to broadcasters before this Code enters force remain valid until expiry”.

### 1.3 Statistical data

During the period (01.04.2008 – 31.08.2009) of monitoring the enforcement of the provisions of the *Moldovan Broadcasting Code* by the regulating authority, the BCC held public sittings, at which 150 decisions have been adopted. Of those, only 85 were published in Monitorul Oficial al Republicii Moldova (Official Gazette) and, consequently, they are the only that may produce juridical effects. Their classification by contents is shown in *table 1*.

Table 1<sup>1</sup>

Content of decisions	Number	Notes
Applying penalties	22	- 45 warnings (including 2 for NPBI “Teleradio-Moldova”); - 11 fines; - 7 withdrawals of broadcasting license or of re-transmission authorizations
Issuing broadcasting licenses	14	<b>Licenses issued by contest:</b> - 5 licenses for using by <i>one</i> frequency; - 1 license for using by <i>five</i> frequencies; - 1 license for using by <i>six</i> frequencies; - 6 licenses for using by <i>one</i> TV channel; - 2 licenses for using by <i>two</i> TV channels; - 1 license for using by <i>four</i> TV channels; - 2 licenses for using by <i>eight</i> TV channels; - 1 license for using by <i>twelve</i> TV channels; <b>Licenses issued without contest:</b> - 11 broadcasting licenses. <b>Frequencies not distributed at contest sitting (“stated as free and set for contest”):</b> - 1 frequency; - 6 TV channels. <b>9 applications</b> on issuing broadcasting licenses (without contest) <b>rejected</b> or decided <b>to be “considered later”</b> .

<sup>1</sup> The table shows the BCC decisions: a) adopted during the period 01.04.2009-31.12.2009 and published in Monitorul Oficial al Republicii Moldova, b) adopted during the period 01.01.2009-31.08.2009.

Issuing re-transmission authorizations	17	32 retransmission authorizations. 10 applications to issues retransmission authorizations <b>rejected</b> or decided <b>to be "considered later"</b> .
Prolonging broadcasting licenses <b>by law</b> (without contest)	2	(all applications rejected)
Approving retransmitted channels lists	23	65 retransmitted channels lists. 11 retransmitted channels lists <b>rejected</b> or decided <b>to be "considered later"</b> .
Withdrawing licenses / retransmission authorizations, on request	7	8 broadcasting licenses and retransmission authorities.
General concepts of program services of broadcasters	6	Adopted: 1 Radio 5 TV
Normative decisions	9	
Approving concepts on covering electoral campaigns	2 +	66 Concepts: 31 - TV by air, 31 - Radio, 3 – Cable TV, 1 – Cable Radio.
	1	52 Concepts (57 media): 25 - TV by air, 28 - Radio, 4 – Cable TV, 1 – Cable Radio.
Examining notifications	6	14 notifications (including notifications from political parties, citizens)
Examining preliminary applications of media	7	
Expiry of broadcasting licenses	2	15 holders
Announcing contests	1	
Announcing moratorium on announcing contests for radio frequencies and TV channels	2	
Powers related to unfolding the activities of the BCC	9	
Powers related to unfolding the activities of the NPBI	4	
Ceding broadcasting licenses	5	(including ceding broadcasting licenses, issued to media outlets on the basis of the Broadcasting Law, which, under the Code, have the status of services distributors)

#### 1.4 Activities of regulating relationships in the sector

During the monitoring period, the BCC has adopted and published in Monitorul Oficial al Republicii Moldova the following decisions as regulation norms in the sector:

- Decision no.50 of 27.05.2008 on some modifications to the Regulation on managing the Broadcasters Support Fund;
- Decision no.70 of 25.06.2008 on modifying Decisions "On cession contract relationships among audiovisual services distributors" no.14 of 12 February 2008;
- Decision no.83 of 30.09.2008 on the Instruction on adopting reasoned decisions in issuing licenses by contest;
- Decision no.96 of 17.10.2008 on the obligation of broadcasters and services distributors to inform the public about the penalties applied by the Broadcasting Coordinating Council;
- Decision no.98 din 17.10.2008 on the Regulation on the participation of holders of broadcasting licenses and retransmission authorizations, program consumers and other interested entities in the BCC sittings;
- Decision no.35 of 1 April 2009 On relaying program services of BBC, Europa Liberă, Radio France Internationale, TV-5
- Decision no.36 of 1 April 2009 On some modifications to the Regulation on managing the Broadcasters Support Fund
- Decision no.53 of 21.05.2009 on modifying BCC Decision no.83 of 30 September 2008;
- Decision no.68 of 03.07.2009 on including Moldovan broadcasters' program services into the cable operators' offers.

### 1.5 Issuing licenses and re-transmission authorizations

During the monitoring period (01.04.2008 – 31.08.2009), the BCC held a contest to distribute available and made-available frequencies on 7 Mai 2008.

In the monitors' opinion, the contest sitting unfolded by not observing all the legal provisions (see addendum *no.3*). The main objections are:

- holding the contest without express requirements as to the program services for the radio frequencies and TV channels set for contest;
- the applicants' dossiers were assessed without clear, exact, measurable selection criteria, which the BCC was bound to draft and make public under the law;
- the BCC's decision on the results of the frequency contest contains no reasons supported by persuading arguments and by explanations to justify the results of the voting;
- the vague provisions from the Code regarding the conditions of issuing broadcasting licenses and retransmission authorizations, which were not specified either in the Regulation specially worked out for that procedure.

Such conditions jeopardize the insurance of pluralism and diversity, generating opportunities to set up monopolies and property concentration in broadcasting.

The observers find shy attempts to make transparent the verification of the financial capacity of applicants for frequencies. But, generally, there is no firm trend in this respect, thus the legal provisions remain not enforced.

In order to insure diversity and pluralism in the broadcasting sector -- a major desideratum of the Code -- the BCC is to considerably enhance the effort of adjusting licensing to the legal provisions.

### 1.6 Monitoring broadcasters and program services distributors

Exercising one of its key powers, during the reference period, the BCC has permanently monitored the work of broadcasters and program service distributors. Thus, out of all 150 decisions, the contents of which are shown in the table below, 22 decisions refer to the results of the monitoring by the BCC and they are accompanied by penalties.

Considering the adopted decisions highlights both the priorities of the regulating authority, and main infringements committed, according to the results of the monitoring, by broadcasters and services distributors while enforcing the Code. The classification of the infringements is broken down in *table 2*.<sup>2</sup>

Table 2

Classification of infringements	Number of cases
Retransmitting program services without contracts, concluded with the holder of rights on program services (art.18 para.(3), The Code), services distributor retransmitting audiovisual program services, which are not provided in the re-transmission authorization (art.28, The Code)	47
Infringing norms of insuring social-political balance and pluralism (art.7, The Code)	15
Not observing the program schedule (art.38 para.(2) let.b) and c), The Code)	14
Not observing the quota of local music in the total volume of broadcast music (BCC Decision no.51 of 12.04.2007)	12
Broadcasting without retransmission authorization (art.28, The Code)	8
Broadcasting without technical license (art.4 para.(5), The Code)	6
Access of deaf people to TV programs of major importance and news (art.13 para.(4), The Code)	5
Not presenting information requested by the BCC (art.25 para.(1) let.k), The Code)	4
Infringing norms on guaranteeing morality and on insuring the protection of minors (art.6, The Code)	2
Not observing the quota of own and local production with informative and analytical character in the official language of the state (art.11 para.(3), The Code)	1
Not observing the quota of programs in the official language of the state, in program services (art.11 para.(9), The Code)	1
Not informing the public (art.66 para.(6), The Code)	1
<b>Infringements of the legislation on advertising, teleshopping and sponsorship</b>	
Advertising one and the same good... (art.13 para.(8), Advertising Law)	11
Advertising pharmaceuticals and medical treatments (art.19 para.(10), The Code)	9
Broadcasting advertising and teleshopping in a group, broadcasting them without clear and easily visible identification signs by broadcasters (art.21 para.(1)-(2), The Code)	8
Broadcasting hidden advertising in program services (art.19 para.(14), The Code)	7
Broadcasting relayed ads without coverage (art.22 para.(2), The Code)	5
Advertising alcoholic beverages (art.19 para.(11), The Code)	4

<sup>2</sup> The table shows the BCC decisions: a) adopted during the period 01.04.2009-31.12.2009 and published in Monitorul Oficial al Republicii Moldova, b) adopted during the period 01.01.2009-31.08.2009.



The name or trademark of the sponsor shall be clearly highlighted in the beginning and/or the end of the program (art.20 para.(1), The Code)	4
Requirements for sponsored programs (art.22 para.(1), Advertising Law)	2
Inserting advertising into program services relayed by services distributors, without clear and easily visible signs (art.19 para.(4), The Code)	2
Exceeding the advertising quota during one hour (art.22 para.(3), The Code)	2
Encouraging to buy or rent sponsor's products and services (art.20 para.(1), The Code)	1

As is shown by the BCC decisions, its supervising activity has focused on protecting 21 provisions from the Code, 2 provisions from the Advertising Law and 1 provision from the BCC decisions. At the same time, we find that, during the reporting period, the BCC was not concerned with monitoring the enforcement of such important provisions of the Code as:

- restricting property to limits insuring the economic efficiency, but not generating the appearance of dominating positions in forming the public opinion (art.7 para.(5), including the respect of the provisions on the legal regime of the property in broadcasting (art.38 para.(2) let.k.);
- broadcasting European audiovisual works (art.3).

During the unfolding of the project, the monitoring team found cases of superficial and, consequently, irrelevant monitoring broadcasters (electoral race term), found that, actually, in the process of monitoring, the BCC focuses on sporadic and episodic monitoring sessions of media and does not ground on a clear concept and on an assessment mechanism of the work of broadcasters in conformity with the provisions of the Code in order to promote the public interest in broadcasting.

## **1.7 Insuring transparency and responsibility to the public**

### **Transparency**

In general, the BCC has displayed openness for public access to the information related to its work: the sittings are public, the adopted decisions and normative acts were made public, the draft normative decisions, most of the sitting agendas and of the dossiers on participating in frequency contests have been posted on the BCC's web page, as provided under the Code.

However, the observers have also signaled out big faults in this respect: a big number of BCC decisions have never been published in Monitorul Oficial al Republicii Moldova (65 decisions out of 150,) adopting and publishing in Monitorul Oficial al Republicii Moldova of the most important decisions of the BCC without reasoning them, not publishing on the BCC's web page the minutes of the BCC sittings.

### **Responsibility to the public**

During the monitoring period, the BCC has failed to attain one of its key missions: responsibility to the public. This fault can partially be explained by the imperfection of the Code, which does not provide exact provisions as to the execution of that obligation. Or, in its capacity of a guarantor of the defense of the public interest in the sector of audiovisual communication, the BCC is obliged to insure the transparency of its own work.

### **Cooperating with representatives of the civil society**

The BCC was partially open for cooperation with representatives of the civil society, of broadcasters and of services distributors in solving problems in the sector. The BCC members attended the public reunions debating on issues of the sector (conferences, seminars, reunions of BCC members with representatives of the civil society in order to debate draft acts of the BCC, etc.), cooperated with representatives of the civil society in drafting acts (*drafting and adopting the Broadcasters Behavior Code, drafting proposals to modify the Advertising Law, drafting the Concept on digitizing the broadcasting sector.*)

## **1.8 Conclusions and recommendations**

### **Conclusions**

During the monitoring session (01.04.2008 – 31.08.2009), the BCC had the mission to supervise the enforcement of the law in its sector and of the international practices, which were to bring up essential changes in the development of the Moldovan broadcasting and in adjusting it to the European standards.

The BCC has failed to fully cope with those requirements, and consequently some decisions of the regulating authority were publicly disapproved and questioned and have affected the national broadcasting.

Stressing certain positive changes in the BCC's work, the monitors also find the selective criterion in enforcing certain provisions of the Broadcasting Code.

### **Recommendations for the Broadcasting Coordinating Council:**

- insuring the genuine defense of program consumers' rights;
- reasoning the adopted decisions;
- publishing all the decisions in Monitorul Oficial al Republicii Moldova in reasonable terms;
- guaranteeing, in transparent conditions, the restriction of the concentration of property in electronic media to dimensions that would not generate the appearance of dominating positions in forming the public opinion and that would also insure the economic efficiency of broadcasters;
- publishing the list of the real owners of all the electronic media outlets;
- drafting and adopting the general conditions of monitoring broadcasters and services distributors;
- publishing on its web page the results of the monitoring sessions of broadcasters and of services distributors;
- insuring better quality for the working materials for the public sittings;
- insuring the transparency of its own work by publishing on its web page the minutes of the BCC sittings, and all the relevant information from the dossiers of frequency contest applicants;
- organizing, at least once in two months, news conferences on topics of major interest, including on its work with the notifications.

### **1.9 List of addenda (case studies)**

Addendum no. 1/1	<i>The BCC observing national and international regulations in the case of the public notification concerning the speech of the program "Povești cu măști" (Tales with Masks), broadcasted by the NIT TV station</i>
Addendum no. 1/2	<i>The Regulation on managing the Broadcasters Supporting Fund</i>
Addendum no. 1/3	<i>Respecting the provisions of the Broadcasting Code in issuing broadcasting licenses in contests</i>
Addendum no. 1/4	<i>Supervising the work of the Broadcasting Coordinating Council by the Parliament of the Republic of Moldova</i>
Addendum no. 1/5	<i>Holding the contest for occupying two positions of members of the Broadcasting Coordinating Council</i>
Addendum no. 1/6	<i>Offers of program services distributors</i>
Addendum no. 1/7	<i>Adopting the Concept of covering the 2009 parliamentary elections in Moldova by the Moldovan broadcasters by the Broadcasting Coordinating Council</i>
Addendum no. 1/8	<i>The observance of the Broadcasting Code by the Broadcasting Coordinating Council during the electoral period the parliamentary elections of 5 April July 2009</i>
Addendum no. 1/9	<i>The observance of the Broadcasting Code by the Broadcasting Coordinating Council during the electoral period the parliamentary elections of 29 July 2009</i>

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## **Chapter II. MONITORING THE WORK OF THE OBSERVERS COUNCILS OF THE NATIONAL PUBLIC BROADCASTING INSTITUTION "TELERADIO-MOLDOVA" AND OF THE REGIONAL PUBLIC BROADCASTING INSTITUTION "TELERADIO-GAGAUZIA"<sup>3</sup>**

### **2.1 General frame**

One of the objectives of the project envisages the monitoring of the mode in which the OC of the NPBI has honored its obligations pouring from the provisions of the Broadcasting Code and from its own Regulation, which stipulates: "...the Observers Council supervises the observance, by the Company's administration and employees, of the legal frame regulating the public broadcasting, assuming the mission of a guarantor of the correct enforcement of the law in the Company's work. The Council's Decisions, adopted on issues related to its duties, are compulsory for the Company's administration..."

Pursuing to attain its set objectives, the monitoring team delegated a representative, who attended all the public sittings of the OC to find facts from the first source. The collected data served as basis for several case studies in the project and for the analysis proper of the OC's work.

### **2.2 Legal provisions**

Under art. 58 of the Broadcasting Code, the Observers Council was granted the following powers:

- a) approves the statute of the company and the modifications thereto;
- b) approves the Task-Book of the company, which includes the financial plan and the statement on the editorial policy of the company;
- c) evaluates the performance of the company and its administration, by publishing annual reports and recommendations;
- d) approves the institution, re-organization and closure of the work of the subdivisions of the company, including its territorial offices;
- e) organizes public reunions with representatives of different categories of the Moldovan audience in order to make audience researches;
- f) appoints, following contests, the president of the company, the director of the radio and the director of the television;
- g) notifies, ex officio or if requested, about violating the Broadcasting Code and other laws, committed by the company, forwarding its president notifications to enter legality.

### **2.3 Statistical data**

Under art. 56 of the Broadcasting Code, the OC is constituted from 9 members. Now the OC has 6 members: Mariana Şlapac (president), Anatol Dubrovski (secretary), Igor Munteanu, Boris Focşa, Ludmila Barbus, Tudor Tataru (members). A OC member (Igor Munteanu) does not attend the OC sittings.

From 01 April 2008 to 31 August 2009, the Observers Council held 33 public sittings adopting 39 decisions. 157 issues were included into the orders of the day of the sittings.

In April 2008, the OC adopted 1 decision, in May 2008 – 1, in June 2008 – 4, in July 2008 – 1, in August 2008 – 1, in September 2008 – 4, in October 2008 – 4, in December 2008 – 3, in January 2009 – 4, in February 2009 – 2, in March 2009 – 1, in April 2009 – 3, in May 2009 – 6, in June – 1, in July – 1, in August – 2. The average monthly number of sittings is 1.94.

### **2.4 Exercising the legal duties**

Despite its missions inferred through the law, during the reporting period, the OC adopted a restricted number of decisions compared to the problems notified by society in the work of the public service. Sometimes, the OC sittings were prepared insufficiently, so that the tackled subjects were finalized not always.

The documents adopted by the OC were not always sufficiently prepared, so, in some cases, they had to return to the adopted decisions at the sittings that followed (the case of adopting the 2009 Task-Book.)

The OC abusively assumed decisions running counter the law. Thus, at the sitting of 22.12.2008, the OC approved the modifications to its own Regulation establishing that its members whose mandates expired should stay in office until the Parliament designated new members.

The Observers Council turned a deaf ear to the signals of the civil society, which has performed monitoring sessions and showed itself alarmed with the situation of the company, neither did it pay any heed to the petitions of political parties, which notified it on the infringements committed by the Company during electoral campaigns.

During the monitoring period, the OC held no meeting with the public and did not start any audience research in order to learn what the public's expectations were as to its work and the company's work.

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<sup>3</sup> The data and commentaries from this chapter refer only to the OC of "Teleradio-Moldova", since, given the political situation in Comrat, the OC of "Teleradio-Gagauzia" has practically been paralyzed (see case study from addendum no. 2.)

As for the managing activity, the OC has never assessed the performance of the company and of its administration, as no recommendation concerning the work of the company has been published up to now.

The OC failed to make efforts to inform the public on the date, time and agenda of its sittings and on the contents of the adopted documents.

## **2.5 Conclusions and recommendations**

### **Conclusions**

During the reporting period, the OC has displayed its inefficiency, and its powers provided by the Broadcasting Code have not been fully capitalized. Up to now, the OC has not established, with maximum clarity, its basic goal and has not determined its key actions to be undertaken. The OC has managed to live up to its powers to an insufficient degree. It has failed to deeply perceive the peculiarity of a public radio and TV service and, perhaps, this is the explanation for its full negligence of its function to supervise the observance of the law by the employees and leadership of the company.

### **Recommendations**

- The OC should conscientiously and responsibly assume its mission of a guarantor of the correct enforcement of the law by the public broadcaster, consistently insuring the efficiency and responsibility on the part of the Company's administration.
- In electoral campaigns, the OC should regularly and closely supervise and examine the work of the Company, attentively watching the observance of the provisions of electoral legislation and the norms of professional ethics;
- The OC should permanently and responsibly supervise the implementation in the editorial policy of the Company of the provisions of the Code of the Producers of the public company "Teleradio-Moldova";
- The OC should competently react in the public interest to internal and external monitoring, case studies, statements and comments appearing in media and expressing viewpoints of the public;
- Regularly publishing its decisions on the web page of the company;
- Modifying the OC Regulation by introducing obligations to reason the decisions adopted by the Council;
- The Broadcasting Coordinating Council should condition its sanctioning of the draft Task-Book by its being drafted transparently and publicly debated;
- Organizing meetings with the public;
- Organizing the drafting work of the Task-Book in a manner allowing, on the one hand, for the wide and real participation of the NPBI employees, and, on the other hand, for holding public debates on the verge of the draft;
- Periodically evaluating (as often as need, but not rarer than quarterly) the company's performance by the OC and making public the results.

## **2.6 List of addenda (case studies)**

- Addendum no. 2/1 *Teleradio-Moldova's Task-Book for 2009*
- Addendum no. 2/2 *Dismissing the members of the Observers Council of the Regional Public Broadcasting Institution (RPBI) the company „Teleradio-Gagauzia“*
- Addendum no. 2/3 *Transparency in the work of the Observers Council of the National Public Broadcasting Institution "Teleradio-Moldova": legal provisions and enforcement practices*
- Addendum no. 2/4 *The observance of the provisions of the Broadcasting Code by the Observers Council of the National Public Broadcasting Institution "Teleradio-Moldova" during the electoral campaign for the parliamentary elections of April 5, 2009*
- Addendum no. 2/5 *The observance of the Broadcasting Code by the Observers Council of the NPBI "Teleradio-Moldova" during the elect I campaign for the early parliamentary elections of 29 July 2009*

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## **Chapter III. MONITORING THE ENFORCEMENT OF THE PROVISIONS OF THE BROADCASTING CODE THROUGH THE PRISM OF THE ANALYSIS OF THE CONTENTS OF THE PROGRAMS OF THE NPBI "TELERADIO-MOLDOVA" AND OF THE RPBI "TELERADIO-GAGAUZIA"**

### **3.1 General frame**

A major objective of the project was the analysis of the contents of the newscasts, and during the electoral periods, additionally – the programs presenting political/electoral actors, electoral debates and advertising, broadcast by the NPBI the Company "Teleradio-Moldova" and by the RPBI the Company "Teleradio-Gagauzia", in order to determine the degree to which the public national and regional broadcasters comply with the legal norms and professional standards. The project implementing team performed selective monitoring sessions with the duration of one week each, and during the electoral periods – during the whole term of the electoral race (60 days.) Given the fact that early parliamentary elections took place, unplanned, the initial project was extended with two months and, after the race ended, the public broadcasters were monitored a month before the vote day (29 July) and a month after.

The selective monitoring sessions of the newscasts of the NPBI the Company "Teleradio-Moldova" were performed within the periods:

15 April – 21 April 2008;  
30 June – 6 July 2008;  
25 August – 31 August 2008;  
23 October – 01 November 2008.

Each time, the monitors watched and evaluated the contents of the programs "Median-Info" from Radio Moldova and "Mesager" in Romanian and Russian of Moldova 1 television. The results of the monitoring are shown in **Addenda 1-4**.

The selective monitoring sessions of the newscasts of the RPBI the Company "Teleradio-Gagauzia" were performed within the periods:

14 April – 21 April 2008;  
30 June – 04 July 2008;  
25 August – 29 August 2008;  
20 November – 30 November 2008.  
19 January – 23 January 2009.

Each time, the monitors watched and evaluated the contents of the newscasts in Romanian, Gagauz and Russian of Radio Gagauzia and of TV Gagauzia. The results of the monitoring are shown in **Addenda 5-9**.

During the electoral races, the monitoring of the full broadcasting of the national and regional public broadcasters was performed within the periods:

04 February – 03 March 2009;  
04 February – 05 April 2009;  
01 July – 14 July 2009;  
01 July – 29 July 2009.

One monitored the news, the programs presenting political/electoral actors, electoral advertising and debates. The results of the monitoring are shown in **Addenda 10-13**.

The last monitoring session of news and programs covering political actors, aired by the national and regional public broadcasters, was performed after elections: 30 July – 31 August 2009. The results of that monitoring are shown in **Addendum 14**.

### **3.2 Legal and methodological frame**

Pursing the objectives of the project related to the monitoring of the contents of the newscasts of those two public broadcasters, the implementation team has developed its own methodology grounding on the provisions of the national and regional broadcasting laws and on the professional norms of writing news. Thus, one worked out a Monitoring Card adequate for the pursued goals, able to establish data, sufficiently exact, on the basis of two categories of indices, as follows:

#### **1. quantity indices:**

- number of stories and reports (*to watch the evolutions or the involutions in producing the newscasts*);
- topics (*whether timely and important; the timeliness is determined by the number of consumers interested in the tackled topic; the importance is determined by the number of consumers directly affected by the event, situation, occurrence, etc, they are told about*);
- geography (*whether it justifies the coverage area of the broadcaster*);
- duration (*whether it complies with the timeliness and importance of the topic*);
- protagonists (*whether favoring the social-political pluralism and whether favoring the free shaping of the consumer's opinion*);
- journalism genres (*degree of presence and whether the writing rules in any particular genre are respected*);

## 2. quality indices:

- journalist's position (*partial/impartial, general rule: a journalist offers facts, a consumer draws conclusions; Exceptions: a journalist can express his/her own views, but chooses the genre allowing this – the commentary, for instance*);
- number of sources (*whether there are more information sources and whether they are independent from one another. Referencing to sources confers credibility and complexity to the story*);
- approach of thematic subject (*degree of professionalism, which indicates the depth of covering the topic*);
- the character and tone of the material (*laudatory/neutral/critical; whether the story or the report favors anyone; general rule: a journalist's mission is not to promote anything or anyone, is not to give appreciations, but to furnish sufficient information to allow a consumer to make appreciations*);
- orders of stories in a program (*general rule: the more the story is important, the sooner it is communicated – the reversed pyramid principle. It saves a consumer's time and displays a journalist's respect for him/her.*)

During the electoral period, the provisions of the Electoral Code of Moldova, of other normative acts, as: the CEC Regulation on covering the elections by broadcasters, the BCC's Concept on the coverage of the elections by broadcasters, the international regulations of "Teleradio-Moldova" and of "Teleradio-Gagauzia" regarding their work in elections served as additional pillars for the project implementing team to assess the broadcasting of the national and regional public broadcasters. Thus, separately for the electoral races, a Monitoring Card was developed to allow for establishing relevant data to later determine the real and genuine mode in which those two public broadcasters honored their legal and ethical commitments to the public during the electoral campaign. That monitoring card also comprised:

**Object of monitoring:** news/current affairs and programs in which political actors are present (time interval: 6.00 – 24.00), electoral advertising, debates.

### Monitored political actors (NPBI "Teleradio-Moldova"):

- **Presidency** (Moldovan president, presidential advisors, the presidency's spokesperson);
- **Parliament** (parliamentary factions, independent parliamentarians);
- **Government** (members of the government, deputy ministers, the government's spokesperson);
- **Local public administration** (general mayor of Chisinau, Municipal Council's chairperson, district presidents and deputy presidents, councilors, mayors);
- **Political parties** (representatives/supporters of political parties and their opponents).

### Monitored political actors (RPBI "Teleradio-Gagauzia"):

- **Governor;**
- **People's Assembly;**
- **Regional Government;**
- **Local Public Administration;**
- **Central Public Administration;**
- **Political Parties;**

### Quantity analysis:

- **Frequency** and **duration** of political actors' appearing in news and programs: a) *direct interventions*; b) *mentions/appearance*;
- **Weight** of duration of news with the presence of political actors as related to the total duration of newscasts;
- **Number of sources** used in conflict-related stories: a) *1 information source*; b) *2 and more information sources independent from one another.*

### Quality analysis:

- **Content of information:** a) positive; b) neutral; c) negative
- **Journalist's attitude:** a) favoring; b) disfavoring, c) impartial.

During the term in which the public broadcasters aired electoral advertising and held electoral debates, the Monitoring Card was adjusted in such a way so as to allow the establishment of the volume, ad supplier and times of broadcasting the advertising; the airtime offered to the participants in electoral debates on radio and television.

The Monitoring Card was later adjusted also to the needs of monitoring the broadcasting of the public broadcasters during the post-electoral term.

### 3.3 Statistics, findings, commentaries

The monitoring sessions performed during the project can be conventionally divided into two types: selective monitoring of newscasts and current affairs programs aired by the public broadcasters during the pre-electoral period, and full monitoring of the public broadcasters during and after the electoral races.

**The first type** of monitoring contained: by 4 time segments on TV Moldova 1 and Radio Moldova, during which they aired, and consequently evaluation was granted to 924 TV stories and reports and, respectively, 571 radio stories and reports; by 5 time segments on TV Gagauzia and on Radio Gagauzia, during which they aired, and consequently evaluation was granted to 418 TV stories and reports and, respectively, 331 radio stories and reports.

The first type of monitoring sessions has highlighted that:

**on the NPBI the Company "Teleradio-Moldova"**, the news and current affairs programs mainly cover the political topics to the detriment of the genuine daily and major interests of the public; the producers of news and current affairs programs give priority to the representatives of the government, partially ignoring the parliamentary opposition and totally ignoring the parties outside the parliament; the share of news stories and reports produced on the basis of a single information source continues to remain high; the authors of the stories and reports often take partisan attitudes towards events and protagonists; the news and current affairs programs do not confirm the essence and the public quality of the radio and television service, as envisaged in the law;

**on RPBI the Company "Teleradio-Gagauzia"**, the news and current affairs programs lack topical areas important for the beneficiaries; the news stories and reports are not realized in full conformity with the legal requirements and professional standards; the newscasts are dominated by stories based on a single source; most of the news stories and reports have a non-partisan character, but there are no analytical- - problematic and critical materials; the geography of the stories is very limited.

**The second type of** monitoring sessions roughly contained: by 3 extended time segments – the electoral campaign of the parliamentary elections of 5 April 2009 (04 February – 05 April); the electoral campaign of the early parliamentary elections of 29 July 2009 (01 – 29 July); the post-electoral period after the 29 July elections (30 July – 31 August, 2009.)

During those time segments, analyzed and evaluated were:

**On Moldova 1** – 2,715 news stories and subjects with political actors present, with the aggregated duration of 82.3 h; 17 series of programs with political actors, with the aggregated duration of 56 h; 100 rounds of debates with the aggregated duration of 44.8 h; electoral advertising with the total volume of 14.4 h.

**On Radio Moldova** – 3,665 news stories and reports with political actors present, with the total duration of 119.9 h; 17 series of programs with political actors present with the aggregated duration of 21.3 h; 98 rounds of electoral debates with the aggregated duration of 42.2 h; electoral advertising with the total volume of 10.8 h.

**On TV Gagauzia** – 242 news stories with political actors present with the aggregated duration of 9.8 h; 3 series of programs with political actors present with the aggregated duration of 4.3 h; 78 rounds of electoral debates with the aggregated duration of 54.1 h; electoral advertising with the total volume of 6.8 h.

**On Radio Gagauzia** – 214 news stories with political actors present with the aggregated duration of 8.3 h; 19 rounds of electoral debates with the aggregated duration of 6.7 ore; electoral advertising with the total volume of 3.4 h.

The number of personalized political actors and of the political parties the public broadcasters reported in their news programs; the number of electoral participants in the electoral debates organized by the public broadcasters, and the number of electoral contestants having aired their electoral ads by the public broadcasters during the period of electoral campaigns for the elections of 5 April 2009 and of 29 July 2009, schematically, are shown in **Table 1**. The general picture tells of the fact that the national public broadcaster covered a sufficiently big number of personalized political actors in its news, while on the regional public broadcaster, this index is much smaller. Covering the events attended by political parties and/or electoral contestants, in the news, was extremely shallow on Teleradio-Gagauzia. Certain electoral participants were covered in no story. No electoral contestant was present on Radio Gagauzia, in the news, during the entire race for the early elections.

**Table 1**

<b>Political actors' presence on public broadcasters during the electoral campaigns</b>								
	TV Moldova 1		Radio Moldova		TV Gagauzia		Radio Gagauzia	
	5.04.09	29.07.09	5.04.09	29.07.09	5.04.09	29.07.09	5.04.09	29.07.09
Personalized actors in news (no.)	75	107	98	79	14	14	18	8
Parties in news (no.)	19	17	17	16	2	2	3	0
Electoral contestants, debates (no.)	21	10	19	10	11	7	4	1
Electoral contestants, advertising (no.)	12	9	6	8	4	5	4	4

The number of personalized political actors and of the political parties covered in the newscasts and in the programs of the public broadcasters during the period after the 29 July poll (30 July – 31 August, 2009), schematically, is presented in **Table 2**. Thus, we find a rather enhanced interest of the public broadcasters for the personalized political actors after the early parliamentary elections, the same interest of "Teleradio-Moldova" for the political parties, especially, the ones acceded into the Parliament, and, at the same time, an extremely low interest of the regional public broadcaster for the national post-electoral process.

**Table 2**

<b>Political actors' presence on public broadcasters during the post-electoral term</b>				
	TV Moldova 1	Radio Moldova	TV Gagauzia	Radio Gagauzia
	30.07 – 31.08.09	30.07 – 31.08.09	30.07 – 31.08.09	30.07 – 31.08.09
Personalized actors in news (no.)	51	54	12	10
Parties in news (no.)	9	10	1	2
Personalized actors in programs (no.)	32	22	2	0
Parties in programs (no.)	8	8	0	0

The quota of conflict-related stories in the total number of stories with political actors, and the number of information sources on the basis of which the conflict-related stories were written that the national public broadcaster produced during the monitored electoral campaigns and during the post-electoral period are schematically shown in **Table 3**. On RPBI "Teleradio-Gagauzia", the conflict-related news stories lack almost totally. Table 3 tells of state of things characterized, on the one hand, by a significant number of news stories with political actors, and, on the other hand, an insignificant quota of conflict-related stories – on average, almost one in 6 – 7 stories on Moldova 1, and one in 8 - 9 stories on Radio Moldova. If, till the 5 April poll, both on Moldova 1, and on Radio Moldova the conflict-related stories written on a single source had prevailed, then during the following monitoring periods – the relation reversed, but it has not reached the normal standard.

**Table 3**

<b>News quality: number of conflict stories and number of information sources</b>						
	<b>TV Moldova 1</b>			<b>Radio Moldova</b>		
	05.04.09	29.07.09	August 2009	05.04.09	29.07.09	August 2009
no. of stories (total)	1200	1814	842	411	673	1440
no. of conflict stories	162	309	129	31	154	121
1 source	106	123	41	24	37	36
2 & > source	56	186	88	7	117	85

The results of monitoring the work of the **NPBI the Company "Teleradio-Moldova"** during the electoral periods for the ordinary and early parliamentary elections have shown that, each time, mainly, priority has been given both as frequency and duration to the representatives of the government, to the detriment of the political opposition's representatives, thus generating a clear imbalance in the favor of the ruling party. This fact betrayed an unfair and inequitable treatment of the electoral competitors and is equal to deviating from the legal norms and professional standards.

The NPBI the company "Teleradio-Moldova", as a rule, has displayed favoring attitude, more often, towards the political actors representing the government, and disfavoring attitude only towards the political actors representing the political opposition.

The NPBI the Company "Teleradio-Moldova" largely observed the legal provisions concerning the advertising and the distribution of airtime to electoral competitors at electoral debates.

**The RPBI the Company "Teleradio-Gagauzia"** has not offered its audience the opportunity to get sufficiently informed about the electoral process, in general, and about the political projects of all the electoral contestants, in particular. The electoral contestants have largely ignored the capacity of informing the public through the agency of Teleradio-Gagauzia, what tells of the low trustworthiness degree of the former for the latter. During the reference period, Teleradio-Gagauzia held electoral debates, but did not display equal treatment in offering airtime to the participants therein.

The NPBI "Teleradio-Moldova" and the RPBI "Teleradio-Gagauzia" mirrored the electoral campaign with deviations from the legal provisions and from the professional standards. Both broadcasters displayed partiality towards certain political actors, and particularly towards the ruling party and the PCRM representatives. This fact significantly diminished the opportunities of all the contestants to equally and fairly present their electoral offers through the agency of the public broadcasters on the one hand, and, on the other hand, did not allow the voters to get informed to the degree to which they could assess the quality of the offers. Through the conduct displayed during the first electoral race, the public broadcasters were far from serving the public interest. In fact, they polished the image of the government and denigrated the PCRM's opponents, thus contributing to the polarization of the viewing and listening public, definitely



influencing the options of the voters. The events following 5 April, which led to massive protests, were also a result of the way in which the public broadcasters had honored their social mission.

In the early parliamentary elections, the national and regional public broadcasters did not offer the voters the opportunity to get informed, sufficiently and without restriction, through news and current affairs programs, about the political projects of all the electoral competitors. The news editing policy, adopted by the public broadcasters, rather conferred them the quality of supporters of the government, than the hypostasis of genuine public services. Thus, they did not contribute to inform the electorate to the degree to which the latter ones could make a conscientious and qualified decision on the vote day.

During the first month after the 29 July elections, the public broadcasters covered the post-electoral events attended by political actors either scarcely or in a distorted manner.

The small number of news stories and programs with the participation of personalized and institutionalized political actors on "Teleradio-Gagauzia" could not contribute to adequately inform the public about the development of the post-electoral process.

The public broadcasters and especially the national one displayed lack of impartiality as to the political actors they covered.

All the monitoring reports concerning "Teleradio-Moldova" and "Teleradio-Gagauzia" were made public at news conferences held in Chişinău and Comrat, in conformity with the provisions of the project. The reports were distributed to parties interested directly or indirectly and posted on APEL's site. During the electoral campaigns, they were also posted on the sites of the Civic Coalition for Free and Fair Elections – Coalition 2009 and on site of the NGO ADEPT.

Every time, the reaction of the national public broadcaster to the results of the monitoring was hostile and inadequate, what determined the project implementing team to reconfirm the truthfulness of its data and the justice of its conclusions, several times.

### **3.4 Conclusions and recommendations**

#### **Conclusions:**

- Through their policies of editing news and current affairs programs, the company "Teleradio-Moldova" and the company "Teleradio-Gagauzia" did not honor their public mission they have according to the national legislation;
- In the ordinary and early parliamentary elections, the public broadcasters informed the voters in a manner running counter several provisions of the broadcasting and electoral laws and thus did not contribute to qualified voting on the vote days;
- The mode in which the public broadcasters and especially the regional one informed on the events after the early parliamentary elections did not offer the viewers a full and genuine picture about the post-electoral process in the country.
- During the monitoring periods, "Teleradio-Moldova" and "Teleradio-Gagauzia" could not assert themselves as genuinely public radio and television services.

#### **Recommendations:**

- Setting up efficient mechanisms to get the public broadcasters, and especially the national one, out from political influence, what will allow them to quicker secure the capacity of public services, as provided by the law;
- Strengthening society's control over the work of the public broadcasters by: a) re-shuffling the areas dealt with by the Observers Councils, b) permanent internal and external monitoring of the broadcasting, c) enhancing the degree of transparency of editing;
- Modifying the law so that the public broadcasters be legally obliged to state their editorial policy annually, and in electoral years – additionally before every electoral race;
- Publicly debating the results of the public broadcasters' work, including on the segment of program services, as often as possible, but not rarer than twice a year.

### **3.5 List of addenda (monitoring reports)**

- Addendum no. 3/1 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs "Median-info" and "Mesager" of the NPBI the company "Teleradio-Moldova" (Period: 15 – 21 April 2008)*
- Addendum no. 3/2 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs "Median-info" and "Mesager" of the NPBI the company "Teleradio-Moldova" (Period: 30 June – 06 July 2008)*
- Addendum no. 3/3 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs "Median-info" and "Mesager" of the NPBI the company "Teleradio-Moldova" (Period: 25 – 31 August 2008)<sup>4\*</sup>*
- Addendum no. 3/4 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs "Median-info" and "Mesager" of the NPBI the company "Teleradio-Moldova" (Period: 23 October – 01 November 2008)\**
- Addendum no. 3/5 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs of the RPBI the company "Teleradio-Gagauzia" (Period: 14 – 21 April 2008)*
- Addendum no. 3/6 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs of the RPBI the company "Teleradio-Gagauzia" (Period: 30 June – 04 July 2008)*
- Addendum no. 3/7 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs of the RPBI the company "Teleradio-Gagauzia" (Period: 25 – 29 August 2008)\**
- Addendum no. 3/8 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs of the RPBI the company "Teleradio-Gagauzia" (Period: 20 – 30 November 2008)\**
- Addendum no. 3/9 *Implementing the Broadcasting Code's provisions by analyzing the contents of the current affairs programs of the RPBI the company "Teleradio-Gagauzia" (Period: 19 – 23 January 2009)\**
- Addendum no. 3/10 *Monitoring report on enforcing the provisions of the Broadcasting Code by public broadcasters NPBI "Teleradio-Moldova" company and RPBI "Teleradio-Gagauzia" company during the campaign for the 2009 parliamentary elections (Period: 04 February – 03 March 2009)*
- Addendum no. 3/11 *Monitoring report on enforcing the provisions of the Broadcasting Code by public broadcasters NPBI "Teleradio-Moldova" company and RPBI "Teleradio-Gagauzia" company during the campaign for the 2009 parliamentary elections (Period: 04 February – 05 April 2009)*
- Addendum no. 3/12 *Monitoring report on enforcing the provisions of the Broadcasting Code by public broadcasters NPBI "Teleradio-Moldova" company and RPBI "Teleradio-Gagauzia" company during the campaign for the 2009 parliamentary elections of 29 July 2009 (Period: 01 – 14 July 2009)\**
- Addendum no. 3/13 *Monitoring report on enforcing the provisions of the Broadcasting Code by public broadcasters NPBI "Teleradio-Moldova" company and RPBI "Teleradio-Gagauzia" company during the campaign for the 2009 parliamentary elections of 29 July 2009 (Period: 01 – 29 July 2009)*
- Addendum no. 3/14 *Monitoring report on enforcing the provisions of the Broadcasting Code by public broadcasters NPBI "Teleradio-Moldova" and RPBI "Teleradio-Gagauzia" during the post-election period (Period: 30 July – 31 August 2009)*

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\* Available only in romanian

## **FINAL CONCLUSIONS, SUGGESTIONS AND RECOMMENDATIONS**

### **Conclusions**

The results of monitoring the enforcement of the Broadcasting Code from 01.04.2008 through 31.08.2009 have demonstrated that often cases of grave deviations from and infringements of the law have been recorded in the process of enforcement.

Under the law, the BCC has the mission to supervise the enforcement of the legislation and of the international practices in the sector, and, through its work – to bring about essential changes in the development of the Moldovan broadcasting and to adjust it to the European standards. During the monitoring period, the BCC has failed to fully cope with this requirement, and, consequently, some decisions of the regulating authority were publicly disapproved and questioned and affected the national broadcasting.

During the reporting period, the OC of the NPBI "Teleradio-Moldova" proved inefficient, and its powers provided by the Broadcasting Code were not fully capitalized. The OC has not established, with maximum clarity, its basic goal and has not determined its key actions to be undertaken. The OC has managed, to an insufficient degree, to honor its powers. It has failed to deeply perceive the peculiarity of a public radio and TV service and, perhaps, this is the explanation for its full negligence of its function to supervise the observance of the law by the employees and leadership of the company.

The OC of the RPBI "Teleradio-Gagauzia" worked sporadically and inefficiently, what obviously had effects over the work of the regional public broadcaster, the reasons being both objective and subjective. The subjective ones consist in the fact that, for most of the OC members, this practice was a new domain, previously unknown, and the objective ones are related to the strains generated in that area as the local parliament illegally dismissed the OC members.

The NPBI "Teleradio-Moldova" and the RPBI "Teleradio-Gagauzia", by their policies of writing and editing the news and current affairs programs, failed to honor their public mission inferred by the national law. In the ordinary and early parliamentary elections, the public broadcasters informed the electorate in a manner running counter a series of provisions of the broadcasting and electoral laws and thus they failed contributing to a qualified voting on the vote days. The way in which the public broadcasters, and especially the regional one, covered the events after the early parliamentary elections did not offer the citizens a full and truthful picture of the post-electoral process from the country. The NPBI "Teleradio-Moldova" and the RPBI "Teleradio-Gagauzia", failed to assert themselves as genuine radio and television public services during the monitored period.

### **Suggestions and recommendations**

#### **Recommendations for the Broadcasting Coordinating Council:**

- insuring the genuine defense of program consumers;
- reasoning its decisions by writing the legal and actual reasons to adopt decisions;
- transparently guaranteeing to limit the concentration of property in electronic media to dimensions not generating the appearance of dominating positions in forming the public opinion and would insure the economic efficiency of broadcasters, at the same time;
- drafting and adopting general conditions of monitoring broadcasters and services distributors, regularly performing monitoring sessions and insuring the return to legality of broadcasters admitting deviations from or infringement of the law;
- insuring the transparency of its own work by publishing the minutes of its sittings on its web page, as well as the results of monitoring broadcasters and services distributors, and all the relevant information from the files of frequency contest applicants;
- conditioning to sanction the Task-Book of "Teleradio-Moldova" by its being drafted transparently and publicly debated;
- holding, at least once in two months, news conferences on topics of major interest, including on dealing with the petitions;
- contributing with own initiatives to the improvement of the legal framework regulating the broadcasting, including in the area of regulation provisions.

### **Recommendations for the Observers Councils of the NPBI and the RPBI**

- conscientiously and responsibly assuming their mission of guarantors of the correct enforcement of the law in the work of the public broadcaster, consistently insuring the efficiency and responsibility on the part of the Company's administration.
- regularly and rigorously supervising and examining the work of the public services of radio and television, attentively watching the observance of the electoral law and of the professional ethics norms, during electoral campaigns;
- reacting competently and in the public's interest to internal and external monitoring reports, case studies, statements and comments appeared in media and expressing views of the public;
- reasoning its decisions by writing the legal and actual reasons to adopt decisions
- organizing the work of working out the draft Task-Book in such a manner, which would allow, on the one hand, for the wide and real participation of the employees of the companies and, on the other hand, for holding public debates on the project;
- periodically assessing (as often as necessary, but not rarer than quarterly) the performances of the companies and later publishing the results.

### **Recommendations for the administrations of the NPBI and of the RPBI:**

- setting up efficient mechanisms to get the public broadcasters, and especially the national one, out from political influence, what will allow them to quicker secure the capacity of public services, as provided by the law;
- adequately and efficiently reacting to the opinions existing within society as to the public service, to external monitoring, to the objections voiced by the civil society and media, including by insuring the transparency of the internal monitoring and editorial policies;
- publicly stating its editorial policy annually, and in the electoral years – additionally before every electoral race
- publicly debating the results of the work of the public broadcasters, including in terms of program services, as often as needed, but not rarer than quarterly;
- organizing training courses for the personnel to improve the info product offered to the public;
- starting, keeping and developing a permanent dialogue with the public;
- making public periodical reports on the efforts made to set up a genuine public service of radio and televisions.