

**Supervising the work of  
the Broadcasting Coordinating Council  
by the Parliament of the Republic of Moldova**

*Case Study*

**Introduction**

The work of the Broadcasting Coordinating Council (BCC), an autonomous public authority, the representative and the guarantor of the public interests in the broadcasting sector, an authority responsible for implementing and observing the Broadcasting Code, is supervised by the Parliament by debating on the BCC's annual report. This study refers exclusively to the procedure of the debate within the Parliament and not to the contents of the BCC's report.

Art. 49 of the Code provides:

*(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.*

*Recommendation Rec(2000)23 of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector consecrates Moldova's commitment to insure the genuine independence of the broadcasting regulating authority – the Broadcasting Coordinating Council.*

Observing this commitment entails the legislative consecration of the mechanism of the responsibility of the BCC to exert its functions, which is based on two principles: *a) the principle of responsibility to the public and b) the principle of supervising the legality of the activity by the public authorities (the Moldovan Parliament).*

**Findings**

On 18 January 2008, the Broadcasting Coordinating Council adopted *The Report on the activity of the Broadcasting Coordinating Council from the Republic of Moldova in 2007* (Report). The report and *Decision no.7 of 18.01.2008 on the activity of the Broadcasting Coordinating Council from the Republic of Moldova in 2007* were not published in Monitorul Oficial al Republicii Moldova (the Official Gazette).

The report contains 9 compartments: *I. General Considerations, II. Contests for using radio frequencies and TV channels, III. Broadcasting licenses, re-transmission authorizations, IV. Monitoring, V. Sanctions, VI. BCC participating in court suits, VII. External activities, VIII. Economic-financial activity, IX. Conclusions and proposals.*

The official presentation of the BCC report for 2007 in the Parliament has the date of January 30, 2008.

The members of the relevant parliamentary committee entered in possession of the document later in February 2008.

All the other MPs got the report 3-4 days before the debate on the floor on 4 July, 2008.

After the Code entered force, this is the second report of the broadcasting regulator, subjected to debates within the Parliament, and the first annual report of the current BCC members whose activity is totally liable to the Broadcasting Code. Because of this reason, for this case study, important are the mode and the degree of responsibility with which the Parliament examined the BCC's annual report in committees, subjected to debates and public hearings within the relevant committee and discussed on the floor.

The MPs expressed their attitudes in the process of supervising the BCC, starting from the approach of *the Committee for culture, science, education, youth and mass media*, which, although receiving the report in February 2008, presenting the MPs its note only 2-3 days before the plenary sitting of July 4, 2008. In our opinion, it would have been welcome and necessary that the relevant committee would have organized some public hearings on the BCC's annual report involving representatives of the civil society and of broadcasters. Moreover, we find the BCC report should have been discussed and endorsed within 2 other committees, the *legal, appointments and immunities one* and the *committee for economic policy, budget and finances*, as the Parliament was to pronounce itself on the legality of the BCC's activities and on the correctitude and transparency of financial operations, or this implies a multi-aspect consideration on behalf of the Parliament. It's for the second time when the Moldovan Parliament exercises its duty, within the conditions of the new law, to supervise the process of the development of such an important sector as broadcasting is. One would have expected that the process should have been studied multilaterally by as many as possible deputies, especially from specialty committees.

In its note, the relevant parliamentary committee weirdly found that “*opinion pluralism, multiple source informing, the language balance in the aired programs, ousting programs containing scenes of pornography, exaggerated violence or licentious language that may affect the minors' physical and psychological development are permanently among the basic orientations of the Moldovan broadcasters.*” On the other hand, the committee considers that the BCC “*should start more seriously to analyze the quality of the programs of these institutions: starting from the ones of "Teleradio-Moldova" and ending with the local ones. This is required by both the Broadcasting Code, and by whole society.*” In our opinion, the civil society's monitoring and appreciations have proved that, unfortunately, many Moldovan broadcasters, in their editorial policy, admit deviations from the law and the professional ethical norms, neglecting the opinion pluralism or the multi-source informing, and this is one of the largest problems of the Moldovan broadcasting. We consider namely this situation was to be analyzed by the relevant parliamentary committee, especially in the conditions in which there are enough arguments and attitudes in the press, declarations, case study and monitoring sessions carried out by the civil society. However, the relevant commission cared only to instruct the BCC it should analyze the quality of programs, what is not proper for the tasks of a public regulating authority. We remind that the BCC, under the law, does not involve into the editorial policy of radio and TV stations, but is obliged only to monitor how they observe the law.

The Parliament supervising the BCC's work, by debating on the annual reports, is able to contribute substantially to insuring the BCC's genuine independence and to guaranteeing the transparent activity of this authority. Yet, the way of debating the BCC's report for 2007, which, in addition to the BCC chairman's and the committee's chairman's speeches, contained the attitudes of three MPs more only, entails a formal approach to issues related to the development of the Moldovan broadcasting, to the BCC's genuine autonomy and independence. Thus, the Parliament superficially treated one of its functions: to insure the implementation of the legislation, while the European forums criticize namely the shortcomings in implementing the reforms in Moldova.

*The Decision of the Moldovan Parliament no.159-XVI of 04.07.2008 on the report on the activity of the Broadcasting Coordinating Council in 2007* entails the tendency of the Legislature to further ignore the European standards concerning the broadcasting sector and to keep the BCC within the sphere of influence and political control of the Parliament: “*Art.1. Notice is taken of the report on the activity of the Broadcasting Coordinating Council in 2007. Art.2. The Broadcasting Coordinating Council shall analyze the proposals devised by the Parliament's body and MPs and shall develop, within 2 months, a measures program to optimize its activity, and the activity of all the broadcasters from the country. Art.3.*

*The control of realizing this decision rests with the Committee for culture, science, education, youth and mass media.”*

The Code's provision (art.49 para.(3)) regarding the Parliament supervising the BCC's work clearly establishes that *“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.”* We consider that the provisions of the Broadcasting Code are known to the parliamentarians and are compulsory for them, too. Then, if the Parliament did not reject the BCC's report, although it had the right to do so, we consider as legally ungrounded point 2 of the Parliament's decision obliging the BCC to develop, within 2 months, *“a measures program to optimize its activity, and the activity of all the broadcasters from the country.”* Thus, in the conditions in which the relevant committee recommended, in its note, that the BCC's report should be endorsed by the Parliament, without highlighting relevant deficiencies, the report of the BCC's chairman, the report of the chairman of the relevant parliamentary committee and the discourses of those 3 MPs passed unheeded on the floor, this point 2 of the Parliament's decision opens ways of interference into the BCC's activity, and into the activity of all broadcasters within the country. Thus, the BCC gets an instruction from the Parliament to develop a measure program, within 2 months, to optimize its work, not knowing the drawbacks and not knowing what is to be optimized. Moreover, the BCC gets the instruction to optimize the activity of all the broadcasters, contrary to its tasks as a regulating authority, without clearly outlining what is to be optimized. At the same time, they establish the control over executing the Parliament's decision rests with the media committee. In case the Parliament had rejected, under the Broadcasting Code, the BCC's report, it was to present, within 30 days, a measure program to remove the signaled shortcomings. In this case, the Parliament tendentiously construed the legal provisions and established 60 days to optimize the activity of the BCC and of all the Moldovan broadcasters, entitling its relevant committee to control the realization of this decision. Thus, the supervision of the activity of the BBC and of all the Moldovan broadcasters was reduced from the Parliament's competence to the improper competence of the media committee.

### **Conclusions**

- The Parliament of the Republic of Moldova, by hearing the annual activity report of the BCC, displayed a formal attitude and lack of respect for the genuine independence of the BCC – an autonomous public authority;
- Contrary to the law, the Parliament obliged the broadcasting regulating authority to develop and present a measures program to optimize the activity of the BCC and all broadcasters, without rejecting the BCC's annual report and without pointing out concrete deficiencies which would have grounded the adopted decision;

### **Suggestions**

- In order to insure the transparency and the active participation of the civil society, of broadcasters in discussing the BCC report, in the future, the Parliament may organize public hearings within the relevant committee and within specialty committees;
- The BCC reports may be distributed to MPs reasonably before, so that it is examined and discussed, in full awareness, on the floor and within the committees;
- The Parliament's decisions on the BCC's reports may strictly observe the law and especially the autonomy and independence of the BCC and of the broadcasters;
- We recommend, due to our sincere wish of European integration, that the Parliament grants more attention to the processes of democratization and Europeanization of the Moldovan broadcasting, contributes to align the Moldovan law to the European standards, monitors the implementation of the law on and the development of the broadcasting sector;
- We consider the decision-making process in the broadcasting should take place publicly, with the participation of the civil society and the broadcasters.