

Holding the contest for occupying two positions of members of the Broadcasting Coordinating Council

Case study

Introduction

In accordance with the provisions of the Broadcasting Code of the Republic of Moldova (*henceforth* – the Code), the Broadcasting Coordinating Council (*henceforth* – the BCC) is constituted from 9 members, appointed by the Moldovan Parliament.

In order to insure the continuity of the activity of the broadcasting regulating authority, in accordance with art.43 para.(2) from the Code, the duration of the mandate of those 9 members, appointed initially, was different: 3 members – with mandates of 6 years, 3 members – with mandates of 4 years, 3 members – with mandates of 2 years. Later, the BCC members shall be appointed for 6 years. The Code forbids holding two consecutive terms of a BCC member by the same person.

The appointment of the BCC members is based on contests, the main requirements in holding them being stipulated in the Code:

- *The candidates to the function of a member of the Broadcasting Coordinating Council shall be selected by the parliamentary committee in charge and by the parliamentary juridical committee, which later will propose them to be confirmed by the Parliament. The candidates to the function of a member of the council may be proposed by non-governmental associations, foundations, trade unions, employers unions, religious organizations. The files of the candidates are submitted to the committee in charge. In forwarding the candidates to be confirmed by the Parliament, the committee in charge presents a report, while the Juridical Committee – a co-report. (art.42 para.(2));*

- *The candidates to the function of a member of the Broadcasting Coordinating Council shall be confirmed by the Parliament with the vote of at least 3/5 of the total number of parliamentarians. In case a candidate to the function of a member of the Broadcasting Coordinating Council does not meet the necessary number of votes, the parliamentary committee in charge and the Juridical Committee shall propose a new candidate, within 2 weeks. (art.42 para.(3));*

- *A candidate to the function of a member of the Broadcasting Coordinating Council shall meet the following conditions: a) has higher education and at least 5 years of experience in at least one sector, such as: broadcasting, communication technologies, law, finances, accountancy, company management, dealing with programs or information in any creation institution; b) is at least 25 years old and has not reached the legal retirement age; c) speaks the state language of the Republic of Moldova; d) has no penal antecedents. (art.42 para.(4));*

- *The term of the members of the Broadcasting Coordinating Council is 6 years. The renewal of the structure of the Broadcasting Coordinating Council is done in stages: initially, 3 candidates are selected for 6-year term , 3 – for 4 years and 3 -- 2 years. Upon the expiration of the initial terms, on the basis of the proposals made by the parliamentary committee in charge and by the Juridical committee, on the basis of the notification of the Broadcasting Coordinating Council, the members are appointed for 6-year terms. (art.43 para.(2));*

- *One cannot hold two consecutive mandates of a member of the Broadcasting Coordinating Council. (art.43 para.(4));*

- *After being endorsed by the Parliament, the members of the Broadcasting Coordinating Council give this oath in the plenary sitting of Parliament: “I swear to respect the Constitution and laws of the Republic of Moldova, to defend the citizens’ fundamental rights and freedoms, to fulfill, with honor, conscience and impartially, the tasks I have in this office, not to make political statements during my term.” (art.43 para.(7));*

- *At least 30 days before the expiration of the mandate of the members of the Broadcasting Coordinating Council, the chairman of the Council shall notify the President of the Parliament about this fact, and the President of the Parliament announces the parliamentary committee in charge and the Juridical Committee at the first plenary sitting of the Parliament about the beginning of the appointing procedure of new members of the Broadcasting Coordinating Council. (art.45 para.(8)).*

Findings

Through Letter no.68-02 of 12 September, 2008, recorded with the entrance number 2684 of 12.09.08 by the Apparatus of the Parliament, the BCC chairman notified, in the name of the Broadcasting Coordinating Council, the President of the Parliament of the Republic of Moldova about the expiration, on 20 October 2008, of the mandates of the BCC members, Valeriu Frumusachi and Vlad Țurcanu.

On 26 September 2008 *the Committee for culture, science, education, youth, sports and media* issued a communiqué announcing the contest for the occupation of those two offices of BBC members. The communiqué provided that the parliamentary committee in charge was receiving the following documents of candidates: personal record, CV, reference-recommendation. It also showed the deadline of getting the applications: 10 October 2008, 17.00.

Through Letter no.10 of 10.10.08, the Association of Electronic Press APEL informed *the Committee for culture, science, education, youth, sports and media* about monitoring the contest for the occupation of those two functions of BCC members, asking for the APEL representatives to be allowed to attend all the stages of this process, and to inform them in due time about all the activities related to the contest.

By the deadline, the parliamentary committee in charge registered 10 candidates for the functions of BCC members, as follows:

(1) Victor BURUIANĂ and **(2) Ignat VASILACHE**, put up by *Cartelul Țărănesc „Sfântul Gheorghe”*. The recommendations of both candidates are signed by the board members of *the non-governmental association Cartelul Țărănesc „Sfântul Gheorghe”*: Ștefan Secăreanu, Ignat Vasilache, Iacob Alexa, Vasile Jeverdan, Dinu Țurcanu, Tamara Plămădeală and Ghenadie Vaculovschi). The personal record lacks in the file of Victor BURUIANĂ;

(3) Vitalie MRUG (his file was not presented to APEL by the parliamentary committee in charge);

(4) Vasile NĂSTASE and **(5) Anatol RURAC**, forwarded by the *Foundation for Christian Democracy (Fundăția pentru Democrație Creștină)*. The recommendation-reference, identical for both candidates, is signed by the president of the *Foundation for Christian Democracy*, Vlad Cubreacov. The personal records missed in the dossiers of both candidates;

(6) Marian POCAZNOI, forwarded by *the National Confederation of Trade Unions from Moldova*. The recommendation-reference is signed by the President of *the National Confederation of Trade Unions from Moldova*, Leonid Manea.

(7) Eugeniu RÎBCA, put up by the *Association of Electronic Press APEL*. The accompanying letter band the recommendation-reference is signed by Alexandru Dorogan, the President of the *Association of Electronic Press APEL*. The extract from the Minutes of the Sitting of the Board of APEL is signed by Vasile State (sitting chairman) and Valeriu Vasilică (sitting secretary);

(8) Ilie ROTARU, forwarded by the *non-governmental association “Părinții pentru drepturile copiilor”*. The accompanying letter is signed by V. Guțu, the interim President of *“Părinții pentru drepturile copiilor”*. The recommendation letter is signed by V. Guțu (the interim President of *“Părinții pentru drepturile copiilor”*) and by S. Bobeico (the secretary of the board of *“Părinții pentru drepturile copiilor”*);

(9) Dorin SCOBIOALĂ, put up by the *Foundation for the Support of Democracy and Parliamentarianism (Fundăția pentru Susținerea Democrației și Parlamentarismului)*. The recommendation-reference is signed by the President of *Fundăția pentru Susținerea Democrației și Parlamentarismului*, Liviu Oboroc;

(10) Ghenadie BREGA, put up by *Asociația Civică Internațională “Hyde Park”*. The recommendation is signed by the President of *Asociația Civica Internațională “Hyde Park”*, Parascovia Topală.

At the sitting on 22.10.2008 (began at 8.30), the *Committee for culture, science, education, youth, sports and media*, in order to select the candidates to the function of BCC members, considered the files of the candidates and heard 8 candidates (*the candidate Vitalie Mrug withdrew his documents, and the candidate Ilie Rotaru did not turn up for the meeting*). The sitting was attended by media, representatives of international organizations, the representative of the Electronic Press Association APEL.

After the committee chairman introduced the candidates and after a short exchange of questions and answers, the parliamentarians started to vote for each particular candidate. The candidates gained the following votes: Victor BURUIANĂ – 0, **Ignat VASILACHE – 8**, Vasile NĂSTASE – 3, Anatol

RURAC – 3, **Marian POCAZNOI** – 9, Eugeniu RÎBCA – 5, Dorin SCOBIOALĂ – 2, Ghenadie BREGA – 4.

Under *Decision of the Parliament of the Republic of Moldova no.12-XVI of 31.03.2005 (MO RM (Official Gazette) no.55-58 of 08.04.2005) on endorsing the number and nominal structure of the permanent committees of the Parliament*, with later modifications and additions, on 22 October 2008 the *Committee for culture, science, education, youth, sports and media* had the following structure:

No.	Surname, name	Parliamentary faction
1.	DRAGOMIR Vladimir, chairman	The Communists Party from the Republic of Moldova
2.	GOZUN Petru, deputy chairman	The Communists Party from the Republic of Moldova
3.	GHERMAN Stella, secretary	The Communists Party from the Republic of Moldova
4.	PASECINIC Arcadii	The Communists Party from the Republic of Moldova
5.	ȘTEPA Boris	The Communists Party from the Republic of Moldova
6.	TUREA Oleg	The Communists Party from the Republic of Moldova
7.	LEAHU Angela	The People's Christian-Democratic Party
8.	VARTA Ion	The People's Christian-Democratic Party
9.	ONCEANU Anatolie	Our Moldova Alliance
10.	ȚĂRANU Anatol	Our Moldova Alliance
11.	IVANOV Dumitru, deputy chairman	The Democratic Party from Moldova

Note: data as provided in the Parliament's decision no.12-XVI of 31.03.2005, (MP Anatol Țăranu, a former member of Our Moldova Alliance, later abandoned the above-mentioned faction.)

The selection of the candidates to the position of BCC members by the *Juridical Committee for appointments and immunities* took place at its sitting of 22.10.2008 (began at 11.00.)

The Parliament's confirmation of the candidates Ignat VASILACHE and Marian POCAZNOI was considered in the plenary sitting of the Parliament on 6 November 2008.

The consideration of the issue on endorsing the candidates to the position of BCC members started with the report of the *Committee for culture, science, education, youth, sports and media* read by its chairman, Vladimir Dragomir.

After hearing the report of the committee in charge, MP Anatolie Onceanu (*Our Moldova Alliance faction*) criticized the procedure of "selecting and appointing the BCC members", which, in his opinion, had as an effect the institution of "a total public control" over the BCC.

Using his right to reply, after Anatolie Onceanu's speech, and rejecting the former's accusations, the Parliament's deputy speaker, Iurie Roșca (*the People's Christian-Democratic Party faction*) reiterated the legal procedure of appointing the BCC members by the ruling parliamentary factions. The voting followed.

Under art.42 para.(3) of the Code, in the first stage of the voting procedure, they voted for the separate endorsement of each of the candidatures forwarded by the above-mentioned parliamentary committees. In order to be endorsed as a BCC member, under the law, the votes of 3/5 of the total number of MPs are necessary. The results of the first-stage vote, later confirmed by the record of the plenary sitting of the Parliament (published on www.parlament.md), show that Ignat Vasilache gained 64 votes, and Marian Pocaznoi – 62 votes.

In the second stage of the voting process, immediately following the first stage, the majority of the MPs in the plenary sitting endorsed *The Decision of the Parliament of the Republic of Moldova no.228-XVI of 06.11.2008 on the endorsement of members of the Broadcasting Coordinating Council*.

After the voting procedure, spoke Dumitru Diacov (*the Democratic Party faction*), and he doubted the correctitude of the results of the vote in the first stage of the voting procedure, saying the results of the voting were frauded. The MOP doubted the correctitude of the voting of 3 MPs.

And Leonid Bujor (*Our Moldova Alliance faction*), in his speech, doubted the correctitude of the results of the voting in the first stage of the voting process, raising the issue of rigging the results of the voting. The MPs expressed doubt as to the correctitude of the voting of 6 MPs.

Although 3 MPs -- Dumitru Diacov, Gheorghe Susarenco and Leonid Bujor – expressed their objections as to the voting procedure, the Parliament's speaker did not subject to repeated voting the confirmation of the candidates.

In order to specify the results of the voting, Ștefan Secăreanu (*the People's Christian-Democratic Party faction*), who re-counted the votes in a sector, announced another figure of the results of the voting, different from the initial one (plus one vote.)

Conclusions

Organizations from the civil society were not active in putting up candidates. Especially the sector NGOs (mass-media, economists, technicians and engineers, lawyers, etc.).

There was a disproportionate representation: the NGOs *Cartelul Țărănesc „Sfântul Gheorghe”* and *Fundația pentru Democrație Creștină* presented by 2 candidatures from those 8 considered by the parliamentary committee in charge.

There was felt a political interest for the occupation of those two BCC member vacancies.

The procedure of presenting and examining the candidatures within the committee in charge was formal and irrelevant (there was a single general and single question for all the candidates.)

The voting was formal within the parliamentary committee in charge (groundless, without arguments and reasons.)

The plenary sitting of the Moldovan Parliament was similar to the parliamentary committee in charge (they totally ignored the opposition's speeches.)

The appointment of those two BCC members did not display a clear political will to depoliticize the BCC.

Thus, the legal provision of electing the BCC members from the ranks of the civil society, obviously democratic, through its realization mechanism, proved it's but a shield for the political interests of the majority parties in the Parliament.

Recommendations and suggestions

To modify the Code in order:

- to institute a clear and functional mechanism of the procedure of selecting the BCC members in order to attain the objectives provided for in the law;
- to institute the right of the person to run for the office of a BCC member, only if he/she was a member of any political party;
- to insure wider and more efficient transparency in forwarding and considering the candidatures for the offices of BCC members by the parliamentary committee in charge.

The civil society must be more active in the process of forwarding and considering the candidates for the offices of BCC members in order to diminish the influence of the parliamentary political parties in promoting their strictly party interests.