

COMPLIANCE OF MOLDOVAN LEGISLATION IN THE FIELD OF NATIONAL MINORITY MEDIA TO INTERNATIONAL HUMAN RIGHTS STANDARDS

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Abstract

The availability of national minorities' mass media in any state is a factual confirmation of respect for human rights and international law in this area. The legislation of the Republic of Moldova allows the representatives of minority ethnic groups to create their own media. In general, legal acts and regulations in Moldova comply with the international human rights standards. The missions of international organizations monitoring the situation in the republic note certain shortcomings that are being gradually eliminated. There is a consistently high demand for national minority media in the Republic of Moldova. Every fourth resident of the country belongs to minority ethnic groups. Despite the high demand, the number of such media is small. The exception is the south of the republic, where the autonomous territorial formation of Gagauzia is located, where Gagauz and Bulgarians live compactly. On its territory, all local media broadcast mainly in the languages of national minorities. The experts interviewed in the course of this study explain the small number of national minorities' media through the lack of funds and a shortage of professional staff. The distinctive characteristics of these media - language, subject matter, region of distribution or broadcasting - represent an advantage for the target audience and a disadvantage for advertisers. For the vitality of such media, international organizations, in particular, the UN and the OSCE, recommend providing them with support at the state level. These can be both direct and indirect subsidies. The assessment of national minorities' media should be carried out from two positions: the functioning of the media and the protection of human rights in the context of national minorities. The availability of this media group ensures freedom of access to information for national minorities, political stability in the country and prevents separatist sentiments.

Keywords: *media, national minorities, ethnicity, human rights, Moldova, Gagauzia.*

1. INTRODUCTION

The emergence of national minorities' mass media in any state is due to the availability of two factors: the demand for such media from a potential audience and the conditions created by the state

for their functioning. In the Republic of Moldova, these conditions are met. About 25% of the country's residents are representatives of national minorities. These are Ukrainians, Gagauz, Russians, Bulgarians, Roma people and so on. In 2014, during the population census, more than 20% of the population named the languages of national minorities as their native language (Statistica Moldovei, 2014). As of 2004, in 176 localities, the share of national minorities exceeded or amounted to 20% of the total number of their inhabitants. In some these localities the share exceeded several groups of national minorities. Moldovan legislation in the field of mass media provides for certain privileges for media of national minorities in regions of compact residence with a percentage ratio according to the formula 50%+1. This quota corresponds to individual villages in the north and in the centre, where Ukrainians and so called Russian old believers live compactly. The only region that meets this norm is Gagauzia, where Gagauz and Bulgarians live. The rest of the national minorities are almost evenly, but in a smaller proportion, distributed throughout the republic. The second specific difference of the country is the languages of communication. In Moldova, as in many multiethnic post-Soviet countries, nationality and mother tongue are not directly related characteristics. According to the Ethnobarometer 2020, Russian is the most widely used language for representatives of national minorities (Osce, 2021).

Moldovan legislation grants representatives of national minorities and ethno-cultural organizations the right to create their own media, which is carried out on the same terms for all media. The regulation of these media is carried

out taking into account the international standards set out in the following documents:

- International Convention on the Elimination of All Forms of Racial Discrimination (1965). Moldova ratified the document in 1993;
- The International Covenant on Civil and Political Rights (1966). Moldova ratified it in 1993;
- The European Convention on Human Rights (1950). Moldova signed in 1995;
- The European Charter for Regional and Minority Languages (1992). Moldova signed in 2002, has not ratified;
- Framework Convention for the Protection of National Minorities (1995). Moldova signed in 1995, ratified in 1996;

Certain norms of Moldovan legislation in the field of national minorities' mass media of Moldova require improvements in order to fully comply with international, in particular, European standards. This is indicated by the recommendations of the monitoring groups of the Council of Europe, as well as the participants in our survey - the heads of these media, lawyers, human rights defenders, representatives of ethnic cultural organizations. Bringing legislation into line with European standards is one of the commitments undertaken by Moldova in the process of European integration.

2. MATERIALS AND METHODS

The study uses publicly available statistical data: the 2014 Population Census of the Republic of Moldova, the Strategy for Strengthening Interethnic Relations in the Republic of Moldova 2017-2027, the Ethnobarometer 2020 sociological survey, as well as its own survey of potential consumers of information, experts in this field and employees of these media.

The research methods used are the comparative analysis of international, national and local legislation, a survey with interview elements, and a synthesis and generalization of data.

3. RESULTS AND DISCUSSION

By signing and ratifying international human rights instruments, the Republic of Moldova has

committed itself to respect human rights. The situation in the country is monitored by international missions, the result of the monitoring are recommendations to eliminate deficiencies, which can be divided into two categories:

- regulation of the activities of the media of national minorities by the state;
- subsidies, both direct and indirect.

In Moldova, the activities of audiovisual and print media are regulated at the legislative level, and online media are currently outside the regulatory zone.

Among the recommendations of international organizations, there are general proposals to minimize censorship and ensure objective licensing in relation to the media of national minorities, and quite specific steps to increase the level of access to information. The approach of international organizations is consistent with the principle of "nothing about us without us" (Balan, 2019). This makes it possible to implement in practice the principles of the sixth article of the Framework Convention for the Protection of National Minorities, which obliges the parties to "take all appropriate measures to protect the people who could become victims of threats or acts of discrimination, hostility or violence because of their ethnic, cultural, linguistic or religious affiliation" (Rm.coe.int, 1995). A number of documents specify how this should be applied in practice. Let us consider the compliance of the Moldovan legislation with the recommendations of the following international documents:

- The Sofia Declaration adopted by the European Seminar on Strengthening Independent and Pluralistic Media (especially in Central and Eastern European Countries);
- The fifth opinion on the Republic of Moldova of the Advisory Committee on the Framework Convention for the Protection of National Minorities;
- The thematic comment No. 3 of the Advisory Committee on the Framework Convention for the Protection of National Minorities;
- The OSCE Oslo Recommendations on the Rights of National Minorities in the field of language (Osce, 1998);
- The European Charter for Regional or Minority Languages.

In the Sofia Declaration, as a measure to prevent the dangers associated with prejudice and discrimination, it is proposed to “pursue a more correct recruitment policy that would facilitate the involvement of journalists and journalism representing ethnic and other minorities” (ONU, 1997).

In Moldovan legislation, the norm “nothing about us without us” is not directly mentioned. The structure of the regional public provider of media services, Gagauziya Radio Televizionu, is closest to it. According to the Law of the ATO Gagauzia on Television and Radio, the executive director of the company, the chief editors of television and radio are required to speak the Gagauz language and reside in the territory of Gagauzia. These requirements do not apply to members of the Supervisory Board (GRT, 2016). There are no such requirements in relation to the management of the National Public provider of media services - Teleradio Moldova: TV companies Moldova 1 and Moldova 2, Radio Moldova. A “window of opportunity” exists within the Oversight Board. At least three representatives of administrative-territorial units are appointed to it, with the exception of the Chisinau Municipality. In this case, they may include representatives of the anti-terrorist operation Gagauzia or other settlements characterized by the compact residence of national minorities (Legis, 2018).

The Advisory Committee on the Framework Convention for the Protection of National Minorities, in its Fifth Opinion on the Republic of Moldova, pointed to the possibility of more active involvement of representatives of national minorities by hiring them to work in the State coordinating body - the Council on Television and Radio. The Fifth Opinion on Moldova says: “Advisory Committee notes that there are no positive measures in place in the Audiovisual Council to recruit persons belonging to national minorities although a few staff members allegedly belong to such groups. The fact that no applications have been received from persons belonging to national minorities for the 49 vacant positions advertised by the Audiovisual Council in 2022 reflects the difficulty for persons belonging to national minorities to meet recruitment criteria” (Rm.coe.int, 2023).

At the same time, the Code on Audiovisual Media Services does not prohibit the employment of national minorities. This is possible by including them in the Council itself. Of its nine members, five are representatives of civil society organizations, among which some may be activists of ethnocultural organizations. The National Code on Audiovisual Media Services directly follows the principle of “nothing about us without us” in the only case - the media are obliged to invite representatives of national minorities to the programs in which they are discussed (Legis, 2018).

International documents, in particular the Thematic Comment No. 3 of the Advisory Committee on the Framework Convention for the Protection of National Minorities, indicate the need to “create regulatory bodies to promote ethical journalism, including through targeted training and advocacy activities” with the condition that the representatives of minorities are included in such bodies and regular consultations with minority communities (Rm.coe.int, 2012).

In Moldova, the Press Council can be considered such, it is a non-governmental structure created by non-governmental organizations. It consists of five journalists and four representatives of information consumers. Theoretically, they may include representatives of national minorities, but in practice this is not provided as a mandatory requirement for membership (Consiliul de presa, n.d.).

The OSCE Oslo Recommendations on the Rights of National Minorities in the field of language explicitly state that the independent nature of public and private media programs in the languages of national minorities should be maintained. This is facilitated by the inclusion of representatives of national minorities in the editorial boards of public media (COE, 1992). Such steps make it possible to ensure accuracy, detail, elaboration, correctness, and avoid discriminatory formulations and statements in the presentation of information. The Fifth Opinion on Moldova of the Advisory Committee on the Framework Convention for the Protection of National Minorities mentions the absence of such a tradition in Moldova (Rm.coe.int, 2023).

Article 11 of the European Charter for Regional or Minority Languages provides for the establishment of “at least one radio station and one television channel broadcasting in regional and minority languages” (COE, 1992) by the countries that have signed and ratified this document. Moldova has signed but not ratified this document, so it cannot be directly projected onto the situation in the country. In the republic, this requirement is met by the public media “Teleradio Moldova” and “Gagauziya Radio Televizionu,” which partially or completely create programs for national minorities and with their participation.

According to the Council for Television and Radio, which coordinates the activities of audiovisual media, in 2022 there were also 11 private media outlets broadcasting in the languages of national minorities in the republic:

- there is one NTS TV channel in Bulgarian, one Albena radio station;
- there are two TV channels in Gagauzia - TV-Gagauzia, ATV Coguk and ATV, five radio stations - GRT, Bugeac FM, Bizim Dalgamiz FM, PRO 100 Radio and Radio Jean;
- there is one TV channel in the Roma language - NOAH TV and one radio station - Romano Patrin FM.

In 2020, the program “Under one Sky” was closed on the public TV channel Moldova 1, which told about the life of communities that did not have separate programs. The Fifth Opinion on Moldova indicates that, thus, the activities of the Jewish community remained without coverage. However, in 2021, an analogue of the closed program “Our Common Home” was launched, which filled the gap. In general, the national public broadcasting company in 2023 slightly increased the volume of broadcasting in the languages of national minorities due to programs in Ukrainian language (Rm.coe.int, 2023).

The Council of Europe is aware of the significant increase in the cost of content for the media of national minorities, which, according to the legislation of the Republic of Moldova, must be subtitled or voiced in the official language. Therefore, at the European level, it is proposed to increase public funding in the case of state/public media or to be loyal to the lack of translation in the case of private media. The number of language

benefits includes a recommendation to reduce linguistic quotas for the media of national minorities or ignore them (Rm.coe.int, 2012). The Advisory Committee of the Framework Convention for the Protection of National Minorities proceeds from the fact that the application of an official language quota of 75% to the private media sector is incompatible with article 9.3 of the Framework Convention. The Code on Audiovisual Media Services provides for broadcasting in the republic in the ratio of 80% in the state language to 20% in other languages, meaning the languages of national minorities. For regions with compact residence of minority ethnic groups, the ratio is 25 to 75% (Legis, 2018). This quota increased in 2018 simultaneously with the entry into force of the Code. The monitoring mission ambiguously assessed this change: “Although, as a matter of principle, any reduction of the share of broadcasting in minority languages could be regarded as a step back of minority rights, the Advisory Committee acknowledges that a higher percentage of TV and radio programs broadcast in Romanian could contribute to increasing the level of knowledge of Romanian” (Rm.coe.int, 2023).

TV and radio companies are recommended to place programs of national minorities at a time convenient for the viewer (prime time), the creation of bilingual programs; the inclusion of interests and problems of minorities in the main stream of regular broadcasting, rather than separating them into separate programs, the application of a fair share of broadcasting time to programs of national minorities, depending on the numerical number, but taking into account the fruitful minimum time and money when creating programs for small ethnic groups. The Moldovan legislation does not mention these norms, which allows the placement of programs outside the rating period – prime time, which reduces the number of views, limiting the audience, and removes the topic of national minorities from the main news and events.

International organizations and their missions pay special attention to print media, as they are traditionally the main source of information for older people. In Moldova, this type of media is in critical condition - the number of newspapers and magazines is steadily decreasing. This is due to high competition with new, more operational

types of media (online social networks, Telegram), lack of government support, and a sharp increase in the cost of distributing printed products. In this regard, the participants of the Mass Media Forum in 2023 addressed the Government of Moldova: "The government should identify and implement an effective and sustainable mechanism to support the independent print press in the face of an unprecedented increase in tariffs for its distribution services applied by the State Enterprise "The Moldovan Post" (Consiliul de presa, 2023).

TV channels and radio stations face the same problem. Prior to the entry into force of the new Code on Audiovisual Services, there was a Fund for the Support of Broadcasters under the Coordinating Council for Television and Radio. Grants were allocated from it for the creation of programs by local broadcasters, including those related to the media of national minorities. In 2018 (the last year of the fund's operation), 2,491,800 lei were collected into it, of which 107,700 was the fee for issuing licenses for broadcasting and retransmission, 2,384,100 Moldovan lei - 1% of revenue. radio broadcasters. Starting with 2019, this form of support has ceased to be provided.

An alternative to additional funding for the media is foreign grants from the embassies and Agencies of the United States, Sweden, Romania, Germany, the Czech Republic, Poland, the Representative Office of the European Union in Moldova and others, as well as international foundations, but they are sporadic and unstable. The possibilities of the domestic advertising market are limited.

In 2024, the Republic of Moldova established a Fund of Grants for the Media, which is formed at the expense of budgetary funds, voluntary donations from individuals and legal entities from Moldova and abroad. In 2024, 11 million lei will be allocated from the state budget to the Foundation to create a fund to support the dissemination of print media. Part of the funds will be used to fully compensate for the increase in the tariff for the distribution of newspapers. National minorities and regional media are not directly indicated in the draft law as having priority in allocating grants to them, however, one of the goals of the Fund's activities is called

"encouraging consideration of topics and issues in areas of common social interest." Such topics may include issues related to the topics of national minorities (Parlament, 2023).

With a view of determining the optimal forms of state support for the media, we interviewed 22 experts in the field of national minority media: deputies, BCC staff, lawyers, media managers. All respondents believe that the state should support the media of national minorities. These can be in various forms: grants (63.6%), the creation of separate programs in the state media, headings for national minorities (45.5%), distribution benefits (36.4%), taxation (31.8%), licensing (31.8%), a simplified registration system (31.8%), creation by the state itself of Media of national minorities (27.3%). 13.6% believe that the state should take over the full provision of such media in regions where there are no analogues.

Half of the respondents are currently founders or employees of ethnic non-governmental organizations. 22.2% have their own media – radio or radio, and 11.1% have televisions. The rest are websites, social media pages, and telegram channels. Lack of funds (83.3%) and personnel (50%) are indicated as the reasons for the absence of their media. All respondents in this group want to create their own media and learn more about this opportunity.

4. CONCLUSIONS AND RECOMMENDATIONS

Moldovan legislation in the field of national minority media has been developed taking into account the international requirements for the observance of the rights of national minorities to access and exchange information. With a view of bringing it into full compliance, local experts and international missions recommend making the following changes.

Among the necessary changes we include:

- the specification of legislative acts mentioning the rights and opportunities of the representatives of national minorities and their organizations (recommendations of local experts and Advisory Committee of the Framework Convention for the Protection of National Minorities//Fifth opinion);

- a more active involvement of the representatives of national minorities in the activities of the regulatory body - the Council of Television and Radio, as well as public broadcasters as a measure to prevent the dangers associated with prejudice and discrimination (Sofia Declaration, Advisory Committee of the Framework Convention for the Protection of National Minorities // Fifth opinion);
- the use of a flexible quota system to programs in the languages of national minorities (The language rights of the people belonging to national minorities provided for in the Framework Convention // Thematic comment No. 3);
- subsidization of these media by the State (Advisory Committee of the Framework Convention for the Protection of National Minorities // Fifth opinion).

This is relevant in the light of accelerating the process of integration into the European Union and bringing national into line with international ones. The process should be two-way. The initiative to make changes should belong to both sides. At this stage, the passivity of Moldova's national minorities leads to non-compliance with the principle of "nothing about us without us," including by themselves.

The purpose of the actions and measures taken should not be the isolation of national minorities in society, but the development of its multiculturalism, the unity of the nation in the spirit of mutual respect and cultural exchange, integration, but not assimilation.

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