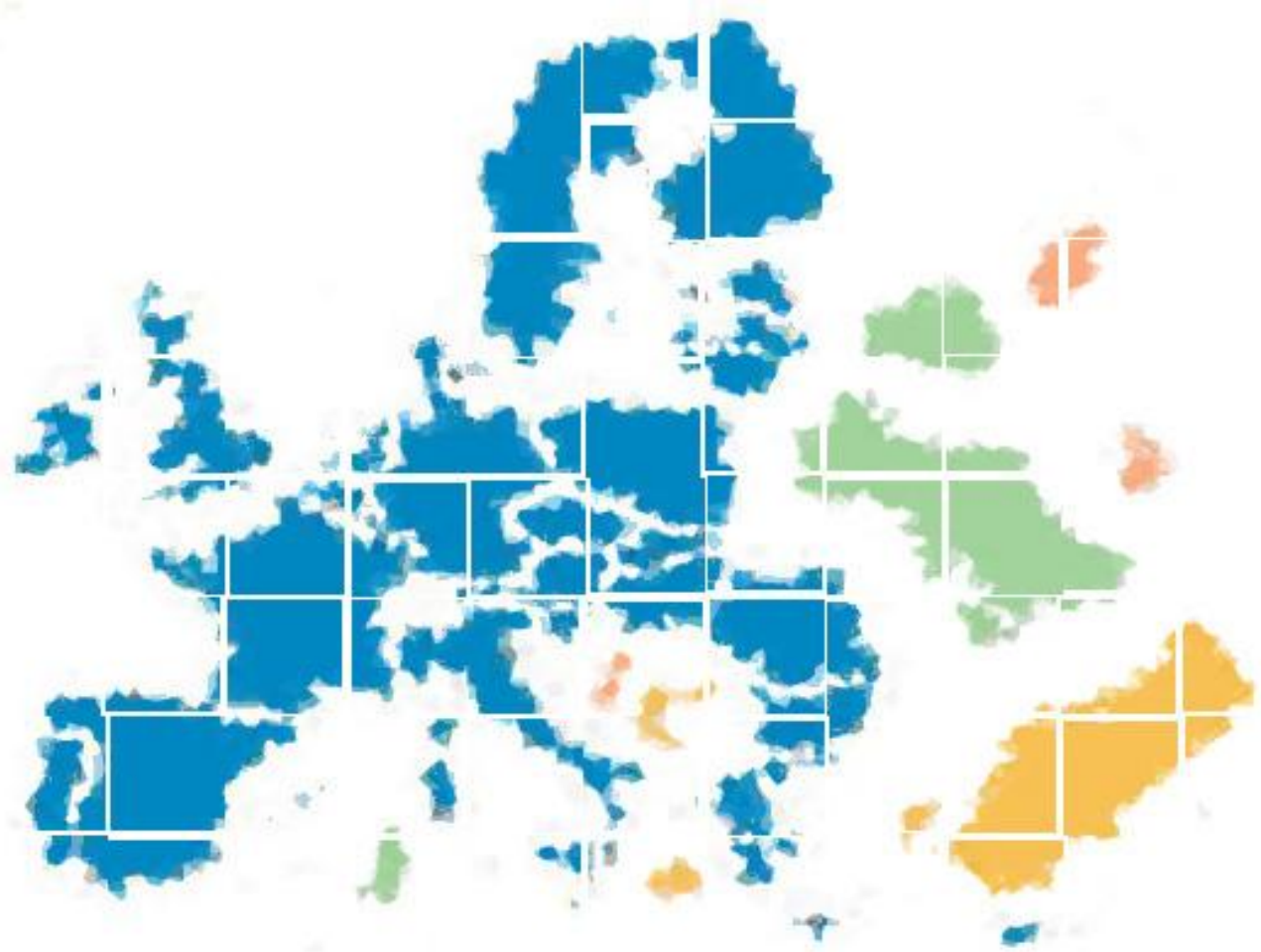


Frontiers of Democracy

Mass Media in the Context of Democratization
The case of the Republic of Moldova

Petru Macovei



2016

Center for European Neighborhood Studies

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Frontiers of Democracy

Embedding Democratic Values in Moldova and Ukraine

Moldova and Ukraine, countries of the European Union's Eastern Partnership program, are undergoing complex processes of democratic transformation, but with weak embeddedness of democratic values and principles drawbacks can occur. It is embeddedness that helps to overcome the challenges of transformation and pushes countries beyond mere frontiers of democracy towards becoming strongly committed democratic communities. The goal of the [“Frontiers of Democracy: Embedding Democratic Values in Moldova and Ukraine”](#) project of the CEU Center for European Neighborhood Studies is to facilitate embedding democratic values in the societal ethos in Moldova and Ukraine by providing a forum for discussion of the difficulties of such a complex process and by drawing on the transition experience of the Visegrad countries (the Czech Republic, Hungary, Poland and Slovakia).



The project and the publication of this paper have been kindly supported by the International Visegrad Fund (www.visegradfund.org).

The opinions expressed here are those of the author.

About the author

Petru Macovei

Petru Macovei is the Executive Director of the Association of Independent Press (API, www.api.md) in the Republic of Moldova since 2004. His experience in journalism dates back to 1991: he worked as reporter, editor and editor-in-chief at several independent newspapers, served as a radio editor, presented a debate show at Moldova 1 Public Television. Currently, he is managing the activity of API, which is one of the most important media associations in Moldova. He is the director of API's main projects and programs, including those related to the training of journalists. Since 2013, he has coordinated the Program of mass media institutions' self-assessment through gender dimension. As national expert in mass media development, he took part in numerous international conferences on the topic. He serves as a trainer in journalistic ethics and professional deontology, and is a trainer at Chisinau Advanced School of Journalism. He has moderated numerous conferences, seminars and round tables on various topics. He was a member of the National Council for Participation and National Council for NGOs in Moldova. He is the secretary of Moldova Press Council – a journalistic self-regulatory structure which examines the complaints of media consumers against journalists and promotes quality journalism.

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Mass media institutions represent an essential tool of democracy, which influences the development of the society to a large extent, including the decisions taken by political and administrative elites that are highly dependent on the public opinion. Actually, mass media institutions perform a double role: to inform the public opinion, and to shape opinions and perceptions about the realities surrounding us. Nevertheless, I argue that, in the contemporary world, this theory about the media's role in the society has been eroding little by little, since new communication platforms are constantly gaining ground against "traditional" mass media, and media consumption preferences change very quickly.

For mass media to operate freely in the public interest and efficiently fulfil their supportive role in building democracy, two essential pre-conditions must be met. First of all, a legal or normative framework should be in place, which guarantees both formally and de facto the freedom of the press to report on events in the society or cover any anti-democratic deviations without any constraints, the freedom to produce and/or transmit various ideas and valuable judgments about these realities, and stimulating mass media pluralism. Second, it is absolutely vital that a critical mass of journalists and mass media institutions should exist, which make use of press freedom and exercise their right to collect and spread information in a professional and deontological way, with clear judgment and good will, under circumstances of defending the journalist profession against different forms of intimidation and persecution.

Apparently, in the Republic of Moldova, the minimal conditions for journalists to work to the best interest of the public exist. The Constitution guarantees the right to information and freedom of opinion and expression;¹ censorship in mass media, deliberate obstruction of journalistic activity and intimidation are prohibited, and the Criminal Code foresees penalties for that.² Penalties for libel have been removed in 2004, and a special law on freedom of expression was adopted in 2010,³ which included additional guarantees for protection of journalists and media staff against abuse and intimidation. A series of other legislative documents have been adopted, whose stated goal was to create the necessary conditions for Moldovan mass

¹ Constitution of Republic of Moldova, Articles 32 and 34:

http://lex.justice.md/document_rom.php?id=44B9F30E:7AC17731

² Criminal Code of Republic of Moldova, Articles 180 and 180:

<http://lex.justice.md/index.php?action=view&view=doc&id=331268>

³ Law of Republic of Moldova no. 64 of 23.04.2010 on freedom of expression:

<http://lex.justice.md/viewdoc.php?action=view&view=doc&id=335145&lang=1>

media development. In 2011, a new edition of Journalist's Deontology Code was adopted⁴ and the Press Council was established as a national self-regulatory structure for mass media, which receives complaints from mass media product consumers and mediates the dialogue and conflicts between editorial offices/journalists and consumers outside a court of law.⁵ It would seem that the majority of necessary pre-conditions exist. Nevertheless, a good part of Moldovan mass media institutions do not operate in the interest of democracy, and some of them have even changed into promoters of obscure and anti-democratic interests of groups that control the respective media institutions. This occurred in a rather short period of time, being in resounding contrast with the Republic of Moldova's commitments on the international level, and contradicting European practices which current authorities adopted more as statements, rather than as concrete facts.

After 2009, when the eight-year Communist regime ended as a result of protests staged by youth dissatisfied with the results of April 2009 Parliamentary elections, and the power had been seized by several parties declaring themselves to be pro-European, the so-called liberalization of the media market was announced in Moldova. The initiative aimed to break the state monopoly in the media sector, and the authorities were committed to perform reform. The work programmes of Moldovan governments after 2009 included chapters with concrete measures related to media liberalization, from the adoption of a new Broadcasting Code (as the previous one was outdated and did not provide the necessary legal guarantees to broadcasting institutions) to fiscal facilities for print press and electronic media. Some reforms were indeed made in 2010 and during the first months of 2011, and the mass media market experienced a slight development. Afterwards, the things did not evolve at all; on the contrary, they regressed. According to the study "Reforms in Mass Media from 2009-2013: From Promises to Actions",⁶ conducted by the Association of Independent Press (API) with the support of the Soros-Moldova Foundation, "from 2011 to 2013, the pace of reforms stagnated; the Moldovan political class postponed the approval of legal and regulatory initiatives that were very important for media development. The practical implementation of the already-existing laws has been delayed. Therefore, the action plan for the broadcasting sector has mostly failed and the priority objectives have not yet been achieved. Except for election legislation, reforms have not been fully implemented in other key areas (legal frameworks, regulators, public service providers, oversight authority, advertising etc.) for developing local broadcasting based on democratic principles." From the status of a country with non-free press in which the Government limits the freedom of journalists, which Moldova had been, according to the "Freedom of the Press" report for the year 2009 issued by the

⁴ Moldovan Journalist's Code of Ethics (new edition), 2011:

http://consiliuldepresa.md/fileadmin/fisiere/documente/Moldovan_Journalist_Code_of_Ethics.pdf

⁵ Moldovan Press Council: <http://consiliuldepresa.md/en/home.html>

⁶ "Reforms in Mass Media from 2009-2013: From Promises to Actions". A Study of the Objectives and Priority Actions for Mass Media within the Moldovan Governments' Programs from 2009 to 2013.

Association of Independent Press (API) from Republic of Moldova, Chisinau 2014:

<http://api.md/upload/files/studiu-REFORMELE-en-WEB.pdf>

international organization Freedom House,⁷ the Republic of Moldova progressed by reaching the top countries with partially-free press in 2011.⁸ However, the indicators measuring press freedom, including the legal, political, and economic contexts in which mass media operate, have not scored any improvement over the last three years, while, on some, an obvious regress has been noticed. Mass media experts explain this by the absence of political will to promote real reforms in the mass media sector generated by the interference of some politicians on the media market and their wish to hold control over mass media institutions in order to instrumentalize them as Party's megaphones during election campaigns and not only. Starting with 2011, the Republic of Moldova has experienced an emphatic process of media ownership concentration into the hands of influential politicians, who are purchasing old and new media companies. This process is made possible by the fact that Moldovan legislation does not include clear provisions against ownership concentration, and the obligation to declare the shareholders and final beneficiaries of media companies was introduced only in 2015. As an adverse effect of all these processes, the pluralism of opinion and diversity of the media content in Moldova has been reduced. At the same time, the information manipulation practices via national mass media and foreign television channels, especially the re-broadcasting on the Republic of Moldova's territory by the same owners of Moldovan media companies, have multiplied. On October 27-28, 2015, Chisinau hosted the first Mass Media Forum in Republic of Moldova, which issued a Roadmap detailing a series of constraints both at the legislative and management levels of mass media operation and administration, as well as at the level of media professionals' training and editorial practices.⁹ The main legal constraints are:

- legal framework in the mass media sector is not aligned to European Union norms, and the transposition of EU norms for democratic journalism into the national legislation and practice occurs at a very slow pace;
- inefficiency of legal norms application for strengthening the media sector;
- lack of transparency with regard to the most relevant aspects of mass media ownership (the owners of several influential mass media institutions are not generally known the degree of mass media ownership concentration, especially in the audio-visual field, is very high, the operation of commercial advertising market is not transparent; the distribution of frequencies/licenses for operation in broadcasting field is problematic), which are crucial for media sector development;

⁷ "Freedom of the Press 2009", Freedom House: <https://freedomhouse.org/report/freedom-press/2009/moldova>

⁸ "Freedom of the Press 2011", Freedom House: <https://freedomhouse.org/report/freedom-press/2011/moldova>

⁹ "Roadmap for mass media development in the Republic of Moldova", Mass Media Forum in the Republic of Moldova, October 27-28, 2015: <http://mediaforum.md/upload/Roadmap%20for%20mass%20media%20development%20in%20the%20Republic%20of%20Moldova.pdf>

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- absence of an appropriate legal framework and an operational institutional framework ensuring loyal competition and eliminating monopolist practices from the market;
- lack of immediate reforms which are necessary to empower democratic journalism;
- arbitrary enforcement of existing legislation;
- vulnerability of decision-making factors vis-a-vis personal, corporate, political-ideological or economic-financial interests;
- absence of policies encouraging internal and external investments in the media sector development that could boost the economic growth of independent mass media institutions;
- limited capacity to protect the national information space against the invasion of foreign media products and to ensure the informational sovereignty of the country.

In accordance with this document, the existing constraints and problems have been generated by a lack of independence of national mass media, as a result of the authorities' indifference to build an information space favourable for strengthening democracy, and also because of a lack of coherent media policies, in general, and of a legal framework ensuring loyal competition and eliminating monopolistic practices, in particular. Without explicit and deliberate interventions on all dimensions, such as regulatory and self-regulatory frameworks, media sector management, competition on the media market and commercial advertising market, professional education, research in the mass media field, it will be impossible to improve the situation. The constraints and problems in the media sector require systemic reforms, with a view to counteract the destructive effects generated by misinformation, propaganda, manipulation and informational intoxication. The Roadmap approved by the Mass Media Forum 2015 defined numerous steps to be taken by authorities, mass media non-governmental organizations, universities with sector-related faculties, as well as the Moldovan journalistic community, so that the situation would change for the better in the upcoming years, and mass media institutions would follow the public interest and contribute to the country's democratization. Representatives of the authorities have acknowledged the need for serious reforms in the field, but any specific actions have not followed yet, possibly because of a political and governmental crisis, which lasted almost 4 months at the end of 2015 – beginning of 2016.

The lack of clear provisions for restricting media ownership concentration has resulted in consolidation of monopolies in this field. In the beginning of 2016, the biggest media trust General Media Grup, owned by the businessman and politician Vladimir Plahotniuc (accused by a part of the Moldovan society of illegal actions and capture of public institutions via blackmail and corruption) is dominant, owning four of the five terrestrial national-coverage frequencies, including Prime TV channel that re-broadcasts the Russian Pervii Kanal TV channel in Republic of Moldova. Generally speaking, the share of the Russian Federation's mass media in the Moldovan space is very

high. This includes TV channels known as vehement agitators of Russian politics, such as Pervii Kanal, RTR, NTV, RENT TV. The national regulatory authority in the broadcasting sector – the Broadcasting Coordination Council (BCC) – complains that it lacks the legal possibilities to protect the information space and consumers against manipulative and hatred-instigating messages diffused by these channels. In reality, the BCC possesses some competences in this field, but fails to apply them fully, because of the same political influence exerted upon this structure by politicians who own media companies re-broadcasting Russian TV channels out of commercial interest. As such, the Moldovan legislation, namely the Broadcasting Code, neglects the broadcasters' obligation to comply with political-social balance and pluralism in the media (Article 7).¹⁰ Nevertheless, the BCC has applied these provisions in the case of some local television channels, including companies re-broadcasting Russian channels. The case concerning the suspension of emission of Rossia 24 TV channel on May 27, 2015, on the territory of Republic of Moldova is illustrative. Prior to that, Moldovan audio-visual companies broadcasting this and other Russian TV channels had been penalized, after having been monitored on grounds of compliance with the principle of social-political balance, equidistance and objectivity in the information shows. The monitoring activity yielded several serious violations and deviations, including the propagation of messages that instigate to hatred in relation to Ukraine, information manipulation and deliberate dissemination of false information. On April 7, 2016, the Chisinau Court of Appeal rejected the appeal of a former Communist deputy,¹¹ who requested the abolishment of BCC's decision to suspend the re-broadcasting of Rossia 24 TV channel in Republic of Moldova. Thus, practices to sanction cases of spreading hatred-instigating speeches exist, but the BCC fails to use the provisions of legislation in all cases, even if civil society representatives requested a permanent monitoring of re-broadcast channels and the penalizing of companies that re-transmit audio-visual products, whose content contradicts the national legislation and the European Convention on Transfrontier Television.¹²

A rather selective approach in applying the law has also been signalled during the election campaign for the November 2014 Parliamentary elections. During that period, the monitoring by mass media non-governmental organizations and the BCC pointed out very clearly the political partisanship manifested by some TV channels, which promoted particular parties during elections very actively, disfavoured their political adversaries and failed to ensure the pluralism of opinion requested by the law. Nevertheless, the BCC was late in penalizing them, and the obligation to comply with the principle

¹⁰ The Broadcasting Code of the Republic of Moldova, no. 260 of 27.07.2006:
http://lex.justice.md/document_rom.php?id=041D82D8:3A07C731

¹¹ Decision of Chisinau Court of Appeal, April 7, 2016:
http://cac.instante.justice.md/apps/hotariri_judecata_inst/cac/get_decision_doc.php?decision_key=A1399B04-C60A-E611-A1AB-005056A5D154&case_title=Dosar-02-3a-3931-22022016-572

¹² European Convention on Transfrontier Television:
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007b0d8>

of gradual application of sanctions, as well as their small amount¹³ reduced the effect of these sanctions to zero.

Under these circumstances, the content of many mass media institutions has been and still remains extremely politicised. Editorial policies are paying tribute to political patronage, i.e. promote the interests and political preferences of their patrons intensively, many of the media owners being, as stated above, politicians, deputies or ministers, or business people with deep political involvement. For such a small market as the Republic of Moldova, where the income from advertising barely exceeds 20 million Euros, the existence of a huge number of media companies of different types cannot be justified only through business and profit reasons (according to BCC data, on January 1, 2016, a total number of 207 audio-visual and re-broadcasting licences were registered in Moldova, including 74 emission licences for television services, 57 – licences for radio services and 76 – emission licenses and re-broadcasting authorisations for service distributors).¹⁴ This situation can be explained, to a great extent, by the interests to convey messages for selective promotion mainly of politicians, which might lead to manipulation of public opinion. Unfortunately, the democratic principle of loyal competition on an open and fair market does not work in Republic of Moldova at this moment, the reason being the same political control exerted over the main mechanisms and structures that should regulate the good operation of the market. Thus, the Competition Council invokes deficiencies in legislation and does not react to signals of media institutions in any way when the latter complain about disloyal competition practices on the advertising market, and abusive practices of periodicals' distributors (in the case of printed press). A new law on advertising is extremely necessary and alternative audience measurements must be stimulated, since the data of TV and radio companies about audience, produced by a single company in the field, are disputed by many important stakeholders on the audio-visual market.

In conclusion, all these circumstances directly influence the content and style of media reporting in Moldova. A good deal of media institutions has biased editorial policies, selecting the published information that satisfies the political preferences of media owners, and not from the viewpoint of the public interest. Accordingly, these media institutions and journalists do not promote democratic values associated to press freedom, such as pluralism of opinion and journalistic equidistance. In times of political crises or during election campaigns, their messages trespass professional deontology norms, and legislation is violated in some cases.

Nevertheless, in the Republic of Moldova there are some mass media institutions that create democratic values and promote important messages for democracy building, such as the rule of law and equality before the law,

¹³ The maximum fine is equal to MDL 5400 or about Euro 250, whereas the cost for 1 minute of electoral advertising on the biggest television channels amounted to several thousand Euros.

¹⁴ Report on activity of Broadcasting Coordination Council from Republic of Moldova in 2015: <http://cca.md/files/RAPORT%20CCA%202015.pdf>

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regardless of political affiliation and existing interference of politics in the justice sector. Such media institutions promote the extremely necessary reforms for the Republic Moldova's democratic development, and cover the reality without distorting it or sparing the state officials. Unfortunately, the impact of this part of mass media is partially repressed by oligarchs' media and governors' unwillingness to adopt public policies that would indeed stimulate mass media independence (not only in the form of statements) and guarantee equal conditions for operation for all Moldovan institutions and journalists.

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