



Report on the respect for freedom of expression in the Republic of Moldova

Prepared by the International Center for the Protection of Human
Rights and Democracy (ICPHRD)

Chişinău, 2024

August

CONTENTS

Introduction	2
1. International Standards on the Freedom of Expression.....	7
1.1. United Nations	7
1.2. Council of Europe	12
1.3. European Union.....	18
1.4. Organization for Security and Co-operation in Europe.....	22
2. Analysis of Recent Measures of the Moldovan Authorities with Impact on Freedom of Expression	24
2.1. Decisions to Suspend the Activity of Audiovisual Television Media Services...24	
2.2. New Mechanism for Suspending Audiovisual Television Media Services.....30	
2.3. Position of the Audiovisual Television Media Services	37
2.4. Criminal Offenses of “Separatism” and “Treason”	38
2.5. Situation in Autonomous Territories and Territories Without Effective Control	45
3. Freedom of Expression and Elections	50
4. Role of the Audiovisual Council in Ensuring Freedom of Expression	52
5. Conclusions and Recommendations	54
5.1. Conclusions	54
5.2. Recommendations.....	56
References	58

INTRODUCTION

Inseparable from democracy, freedom of expression is enshrined in a number of national, international and regional instruments that promote this political system recognized as the only one capable of guaranteeing the protection of human rights.

The right to freedom of expression is a cornerstone of democratic society and its first documented mention goes back as early as the Declaration of Rights of 1689, the Declaration of the Rights of Man and of the Citizen of 1789 and the First Amendment to the Constitution of the United States of America of 1791. However, the right to freedom of expression as it was understood and viewed at the time differs considerably from the way it is perceived today, given the significant evolution of the means and ways in which this right can be exercised.

It is clear that this right is not an absolute one and may be subject to legitimate restrictions. However, restricting this right requires establishing clear, precise, and unanimously recognized rules that do not contradict the very essence of the right to freedom of expression. This is an extremely complicated and delicate matter, especially in the times we live in. Humanity has never had such wide access to information or varied and accessible possibilities to express its opinion as it does now. However, this is not a given and comes with some risks and dangers for society, including the spread of fake news, incitement to hatred or violence, propaganda or damage to reputation.

Therefore, states try to take measures to strike a fair balance between respecting this right, on one hand, and respecting other rights, maintaining public order and national security, on the other.

The Republic of Moldova also undertakes such measures. However, some of these measures have caused controversy and sparked a wave of negative reactions among members of society in recent years.

Thus, on March 27, 2024 nine non-governmental organizations have signed a joint statement on the new legal mechanism to suspend the licenses of a large number of audiovisual media service providers. These organizations expressed their “concern regarding the lack of quality standards in the law allowing for the temporary or permanent suspension of licenses of audiovisual media service providers by the Council for Promoting National Important Investment Projects”. Moreover, they mentioned that “similar legal mechanisms, which involve the suspension of broadcasting permits of TV and radio stations without a court decision, have previously been declared unconstitutional”. Furthermore, they expressed their “disapproval regarding the lack of transparency in the process of drafting, voting on, and implementing the new legal mechanism, urging authorities to abandon such

practices and revise relevant legal provisions to ensure their conformity with international standards”.¹

Equally critical reactions² arose in relation to the decisions of the Commission for Emergency Situations of the Republic of Moldova of December 16, 2022 and October 30, 2023 which suspended the broadcasting licenses of many audiovisual television media services. The basis for issuing the decisions in question was “protecting the national information space and preventing the risk of misinformation through the dissemination of false information or attempts to manipulate public opinion, based on the list of natural and legal persons subject to international sanctions [...] and the information available on the control exercised by them over certain media service providers, as well as the many findings in the monitoring reports of the Audiovisual Council on violations of the Audiovisual Media Services Code of the Republic of Moldova, and implicitly the application of sanctions for failing to accurately report national events and the war in Ukraine”.³

In this regard, we also note the concern expressed by the Ombudsman regarding these suspensions⁴ and the new mechanism put in place, as well as the position expressed by the Ambassador of the European Union to the Republic of Moldova, who urged the national authorities to provide more explanations and clarity regarding the decisions to suspend the mentioned licenses.⁵

Also, the United States Department of State's Report on Human Rights Practices in respect of the Republic of Moldova for 2023 referred to the ODIHR's position that the suspension of broadcast licenses for certain media outlets appeared “to be a disproportionate restriction of freedom of expression”.⁶

At the same time, we consider it relevant to point out that, in general, compared to previous years, the situation regarding press freedom in the state is better according to the World Press Freedom Index of Reporters Without Borders (*Reporters Sans Frontières*), as shown in the chart below:

¹ [Statement Regarding the New Legal Mechanism for Suspending Licenses of Audiovisual Media Service Providers](#)

² [IJC, APEL and the “Access-Info” Center express their concern related to the lack of transparency related to the suspension of licenses for television broadcasters](#)

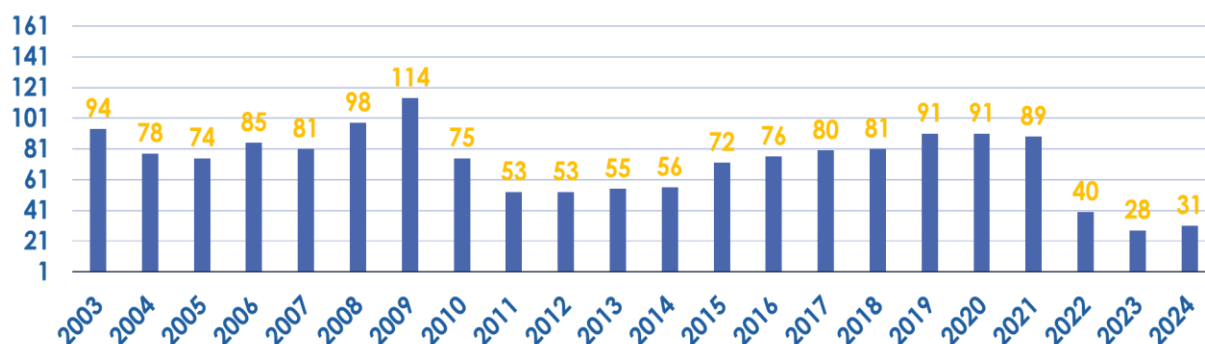
³ [Decision no. 54 of December 16, 2022 of the Commission for Exceptional Situations of the Republic of Moldova, item 9](#)

⁴ [Ceslav Panico calls on CES to review its decision of 16 December to suspend six TV channels and Ombudsman “concerned” about the suspension of the broadcasting licenses of 6 TV stations and blocking of websites](#)

⁵ [Janis Mazeiks about suspension of licenses of TV channels: We encourage authorities to explain this decision](#)

⁶ [Report of the United States Department of State on Human Rights Practices in respect of the Republic of Moldova for 2023](#)

Republic of Moldova ranking on the World Press Freedom Index
2003-2024



However, this does not mean that there are no issues in this regard, as the latest findings of Reporters Without Borders in 2024 show that press freedom worldwide is threatened by the very people who should be its guarantors, *i.e.* political authorities. According to them, “a growing number of governments and political authorities are not fulfilling their role as guarantors of the best possible environment for journalism and for the public's right to reliable, independent, and diverse news and information. RSF sees a worrying decline in support and respect for media autonomy and an increase in pressure from the state or other political actors”.⁷

As for the Republic of Moldova, according to the most recent findings of Reporters Without Borders, the following issues were highlighted:

- While some media risk taking on issues that are embarrassing for the authorities, many limit themselves to following the political agenda of the party to which they are affiliated;
- No adequate transparency about the grounds for the decisions of the national authorities to suspend the broadcast licenses referred to above, based on the state of emergency imposed because of Russia's invasion of Ukraine;
- The rapid and non-transparent changes to legislation at the end of 2023, aimed to block channels whose licenses were suspended during the state of emergency;
- Lack of resources and financial difficulties encountered by independent media outlets due to the war in Ukraine;
- Covering sensitive topics, especially the war in Ukraine, can lead to self-censorship, as well as the disparagement of media on ethnic, religious or gender-based grounds; and
- Journalists can be the target of insults and intimidation by politicians. Their supporters sometimes resort to cyber-harassment against reporters deemed

⁷ [2024 World Press Freedom Index – journalism under political pressure](#)

hostile to their ideas. Journalists' access to Transnistria, a separatist eastern province supported by Russia, is subject to special accreditation.⁸

At the same time, according to a July 2024 survey conducted by IMAS, 56% of respondents indicated that in their opinion the Moldovan media is largely controlled, while 19% believe that it is partially independent. Also, 53% say that the media in the Republic of Moldova is controlled/influenced by politicians in power and 11% - by opposition politicians.⁹

Another controversial topic that stirred debates in society is the legislative changes made by the Moldovan Parliament, especially concerning the crimes of “separatism”, adopted on February 2, 2023, and “treason”, adopted on June 6, 2024. These measures have also sparked critical reactions from civil society, which have emphasized the danger to freedom of expression.

While it is welcome that the authorities are taking measures to ensure Moldova's national security and sovereignty, the way in which these are defined must not be open to overly broad interpretations by law enforcement bodies that threaten the very essence of freedom of expression.

In this regard, we refer to a European Commission Report on the Republic of Moldova of November 8, 2023, which noted that “criminalizing “separatism” could have a negative bearing on freedom of expression”¹⁰, as well as to the OSCE Comments of December 4, 2023 on the criminalization of separatism in the Republic of Moldova.¹¹

We also refer to the concern expressed by Amnesty International¹² on May 31, 2024 about the amendments to the criminal offense of “treason”, which threatens freedom of expression, a position supported by several well-known figures in the field of law.

According to the Constitution, the territory of the Republic of Moldova is unitary and indivisible. At the same time, we are in the presence of territories which, at least from a territorial point of view, have a special status, either *de facto* (Transnistria) or *de jure* (ATU Gagauzia). As a result of this and because the information on freedom of expression in these regions in recent years is not encouraging, we have decided that it is more than relevant to address these issues in separate sections in this analysis. We believe that the central authorities can and should pay more attention to the issue of human rights, particularly freedom of expression in the autonomous territories (ATU Gagauzia) and those without effective control (administrative-territorial localities on the left bank of the Dniester and Bender Municipality/Transnistrian region).

⁸ [The profile of the Republic of Moldova on the website of Reporters Without Borders](#)

⁹ [Socio-political barometer of July 2024, developed by IMAS](#), p. 28

¹⁰ [European Commission Report no. SWD\(2023\) 698 of November 8, 2023 in respect to the Republic of Moldova](#), p. 38

¹¹ [OSCE Comments of December 4, 2023 on the criminalization of “separatism” and related criminal offenses in Moldova](#)

¹² [Moldova: New definition of high treason passed by parliament threatens freedom of expression](#)

Otherwise, the inaction of the authorities can be qualified as a failure to comply with positive obligations towards the inhabitants of these regions.

Therefore, this report is drafted based on the above findings and as a follow-up to the international conference of hosted on June 25, 2024, organized by the International Centre for the Protection of Human Rights and Democracy (ICPHRD) on the topic “Freedom of Expression: Cornerstone of Democratic Societies”. During this event, the participants - prominent personalities from the legal, academic, civic and media fields at national and international levels - emphasized that freedom of expression in the Republic of Moldova is seriously threatened due to the restrictions imposed by national authorities.

This report aims to objectively address the issues raised above from the perspective of international human rights standards and to provide recommendations for national authorities to effectively ensure the right to freedom of expression, especially in the context of the state's European path which entails respecting several rigors and adhering to the values upon which the European Union is founded.

Thus, the report is structured in five sections, which address the following: *(i)* international standards relevant to the issues addressed, at the level of 4 organizations: the United Nations, the Council of Europe, the European Union and the Organization for Security and Cooperation in Europe; *(ii)* analysis of recent measures taken by national authorities that have an impact or potential impact on the exercise of freedom of expression in the Republic of Moldova; *(iii)* emphasis on the freedom of expression during elections; *(iv)* the role that the regulatory audiovisual authority, *i.e.* the Audiovisual Council, should have in protecting the freedom of expression in the state and *(v)* recommendations for national stakeholders based on the standards identified and the analysis carried out.

1. INTERNATIONAL STANDARDS ON THE FREEDOM OF EXPRESSION

1.1. United Nations

At the United Nations (hereinafter - UN) level, freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights, which states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”.¹³

This fundamental right is also guaranteed by the International Covenant on Civil and Political Rights (hereinafter - the Covenant), under Article 19, which states that “everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. At the same time, this Article provides under para. (3) the possibility of restricting this right as long as this restriction is provided by law and is necessary for: (i) respecting the rights or reputations of others, or (ii) protecting national security, public order, public health or morals.¹⁴

For more clarity and a better understanding of the possibility of restricting this right, the UN Human Rights Committee's General Comment No. 34 of September 12, 2011 on Article 19 of the Covenant, which is an authoritative interpretation of the freedoms of opinion and expression, is pertinent.¹⁵ In the context of this report, we highlight the following considerations from this document.

As regards the possibility of restricting the freedom of speech for respecting the rights and reputations of others, the term “rights” includes human rights as recognized in the Covenant and more generally in international human rights law. For example, it may be legitimate to restrict freedom of expression to protect the right to vote. Such restrictions must be constructed with care: while it may be permissible to protect voters from forms of expression that constitute intimidation or coercion, such restrictions must not impede political debate, including, for example, calls for the boycotting of a non-compulsory vote.¹⁶

As regards the possibility of restricting the right to freedom of expression for protecting national security, public order, public health or morals, states parties must take extreme care that treason laws and similar provisions relating to national security, whether described as official secrets or sedition laws or otherwise, are crafted and applied in a manner that conforms to the strict requirements of Article 19 para. (3) of the Covenant. It is not compatible with this Article, for instance, to invoke such laws

¹³ [Universal Declaration of Human Rights of December 10, 1984](#), Article 19

¹⁴ [International Covenant on Civil and Political Rights of December 16, 1996](#), Article 19

¹⁵ [Open Society Justice Initiative, the section dedicated to the UN Human Rights Committee: General Comment no. 34](#)

¹⁶ [General Comment no. 34 of the Human Rights Committee of September 12, 2011 on Article 19 of the International Covenant on Civil and Political Rights of December 16, 1996](#), para. 28

to suppress or withhold from the public information of legitimate public interest that does not harm national security.¹⁷

Moreover, restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument among those which might achieve their protective function; they must be proportionate to the interest to be protected. The principle of proportionality has to be respected not only in the law that frames the restrictions but also by the administrative and judicial authorities in applying the law. When a state party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.¹⁸

The penalization of a media outlet, publishers or journalists solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression.¹⁹

Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information dissemination system, including systems to support such communication, such as internet service providers or search engines, are only permissible to the extent that they are compatible with Article 19 para. (3). Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with Article 19 para. (3). It is also inconsistent with this Article to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government.²⁰

Following the findings of the UN thematic Report of August 12, 2022, prepared by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the topic of “Disinformation and freedom of opinion and expression during armed conflicts”, the following considerations are pertinent.

State-led or sponsored disinformation has a potent impact on human rights, the rule of law, democratic processes, national sovereignty and geopolitical stability because of the resources and reach of States and because of their ability to simultaneously suppress independent and critical voices in the country so that there can be no challenge to the official narratives.²¹

By fact-checking and providing diverse, verifiable information, independent, free and pluralistic media play a key role in countering disinformation and State propaganda.

¹⁷ [General Comment no. 34 of the Human Rights Committee of September 12, 2011 on Article 19 of the International Covenant on Civil and Political Rights of December 16, 1996](#), para. 30

¹⁸ *Ibid.*, paras. 34-35

¹⁹ *Ibid.*, para. 42

²⁰ *Ibid.*, para. 43

²¹ [UN Thematic Report no. A/77/288 of August 12, 2022 on “Disinformation and freedom of opinion and expression during armed conflicts”](#), para. 59

That is why it is worrying that the media have come under severe pressure in many conflict-affected or neighboring countries. Measures include the expulsion of foreign media, the closure of local news outlets, prosecution under “false news” or national security laws that contravene international legal standards, and attacks against journalists.²²

National security and counter-terrorism laws are often used to silence critical voices, including journalists, human rights defenders and political opponents. Many of those laws fail to meet the three-pronged test of legality, necessity and legitimate aims set out in Article 19 para. (3) of the Covenant.²³

The banning of a media outlet is a severe restriction of freedom of expression and is rarely justified. The European Commission banned several Russian State-owned media outlets on the grounds that they constituted a threat to public order and security by spreading disinformation and propaganda. The necessity and proportionality of the ban have been questioned in a region where independent media and fact-checkers are able to challenge disinformation and where other less drastic measures could have been considered.²⁴

States should not require platforms to enforce regulations that do not conform with international human rights law. Whether during conflicts or in other settings, the Special Rapporteur has recommended “smart regulation” of Internet intermediaries to ensure their compliance with human rights due diligence, meaningful transparency and due process requirements, rather than viewpoint- or content-based regulation.²⁵

Countering disinformation is vital for safeguarding human rights and restoring public trust, but it must be done in ways that are effective, not counterproductive. Censorship of critical voices, attacks on independent media and Internet disruptions do nothing to reduce disinformation and do much to erode freedom of opinion and expression and degrade the information environment. All States must be unequivocal in their commitment to uphold the right to freedom of opinion and expression, and any action they take to counter disinformation should be grounded in international human rights law.²⁶

The prohibition of propaganda for war should be interpreted narrowly to ensure that it does not infringe on the right to protest and criticize.²⁷

States should not prohibit or restrict disinformation, propaganda and “false news” or “fake news” unless they meet the requirements of legality, necessity and legitimate aim as set out in Article 19 para. (3) or amount to incitement in line with Article 20 of the Covenant. They must prohibit advocacy of hatred that constitutes incitement to

²² [UN Thematic Report no. A/77/288 of August 12, 2022 on “Disinformation and freedom of opinion and expression during armed conflicts”](#), para. 61

²³ *Ibid.*, para. 63

²⁴ *Ibid.*, para. 64

²⁵ *Ibid.*, para. 69

²⁶ *Ibid.*, para. 103

²⁷ *Ibid.*, para. 105

discrimination, hostility or violence, or other international crimes. Criminalization of expression should be avoided except in line with the guidance provided in the Rabat Plan of Action.²⁸

States must ensure that all derogation measures are strictly necessary and proportionate to meet exceptional situations, non-discriminatory, time-limited and tailored in scope to the exigencies of the crisis. Furthermore, the measures to restrict expression during emergencies should be declared as derogation under the International Covenant on Civil and Political Rights procedure.²⁹

States should prioritize non-legal measures of countering disinformation and propaganda, starting with their own obligation to proactively disclose official data, encourage trustworthy fact-checking, promote access to diverse, reliable sources of information, ensure media, digital and information literacy and foster an enabling and inclusive environment for civil society to take initiatives to counter information manipulation.³⁰

States should fulfill their duty to ensure the right to information by increasing their own transparency and by proactively disclosing official data online and offline. All States must adopt and implement comprehensive laws on access to information or bring existing laws, policies and practices into line with international and regional standards. Such laws should avoid unduly broad exceptions to the right to information on grounds of national security.³¹

It is not lawful for States to compel media outlets, social media platforms or civil society organizations to disseminate only information produced or approved by the authorities during armed conflicts. Total information blackouts enforced with severe criminal punishment are not justified under international law even during states of emergency.³²

In accordance with the findings of another thematic Report of the UN of April 19, 2023, prepared by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the topic of “Sustainable development and freedom of expression: why voice matters”, we mention the following considerations.

Many of the laws that have been enacted do not meet international or regional standards. Key problems include overly broad or vaguely framed exemptions, gender discrimination, poor implementation of the law, lack of independent oversight, and inadequate or non-existent appeals.³³

²⁸ [UN Thematic Report no. A/77/288 of August 12, 2022 on “Disinformation and freedom of opinion and expression during armed conflicts”](#), para. 113

²⁹ *Ibid.*, para. 114

³⁰ *Ibid.*, para. 115

³¹ *Ibid.*, para. 116

³² *Ibid.*, para. 119

³³ [UN Thematic Report no. A/HRC/53/25 of April 19, 2023 on “Sustainable development and freedom of expression: why voice matters”](#), para. 22

Vague, overly broad definitions of national security and official secrecy are often used by governments to exclude large swathes of information from public scrutiny.³⁴

Voice is a fundamental attribute of the right to freedom of expression and, combined with access to information, gives individuals and communities the agency to shape the conditions affecting their lives and to demand accountability. Voice in that context is the right to share information and ideas, express diverse views, participate in decision-making processes, criticize government and corporate policies and practices, and expose wrongdoing without fear. Voice, combined with access to information, reinforces transparency and accountability.³⁵

This notion of voice, well grounded in international human rights principles and standards, is also acknowledged in the 2030 Agenda. In its targets and indicators, Sustainable Development Goal 16 recognizes that a robust civil society, an open and thriving media space, and legal and institutional frameworks that foster participation and accountability in all areas of public life are essential features of peaceful, just and inclusive societies.³⁶

Free, independent, diverse and pluralistic media fulfil the public's right to know as well as the individual's right to freedom of expression. Numerous General Assembly and Human Rights Council resolutions have acknowledged them as a key pillar of democracy and sustainable development.³⁷

Using “fake news” laws to restrict media freedom or criminalize online speech on grounds of falsity is not only contrary to international human rights standards, but is also counterproductive in combating disinformation and misinformation. Stopping the free flow of diverse sources of news creates more distrust, aggravating rather than addressing the problem. Free, independent, diverse and pluralistic media allows fact-checking of disinformation and misinformation and builds public trust.³⁸

In the conclusions of the report, the Special Rapporteur noted that these are difficult times for freedom of expression. The implications for sustainable development are significant and must be addressed urgently.³⁹

States' responses to disinformation and misinformation should be grounded in human rights. They should encourage the free flow of diverse sources of information, increase their own transparency, proactively disclose official data online and offline, affirm media freedom, independence, pluralism and diversity and ensure the safety of journalists.⁴⁰

³⁴ [UN Thematic Report no. A/HRC/53/25 of April 19, 2023 on “Sustainable development and freedom of expression: why voice matters”](#), para. 23

³⁵ *Ibid.*, para. 51

³⁶ *Ibid.*, para. 52

³⁷ *Ibid.*, para. 61

³⁸ *Ibid.*, para. 88

³⁹ *Ibid.*, para. 91

⁴⁰ *Ibid.*, para. 109

1.2. Council of Europe

The main objectives of the Council of Europe are the protection of human rights, pluralist democracy and the rule of law. It follows that the standards instituted within this intergovernmental organization are fundamental to the peaceful existence of every state that is party to it.

The European Court of Human Rights (hereinafter - the ECtHR or the Court), although not a statutory body of the Council of Europe, is perceived as the judicial institution of the Council of Europe. Because the Court's mission is to monitor compliance with the European Convention on Human Rights (hereinafter - the ECHR or the Convention) and its Additional Protocols by the signatory states, it is the most important human rights monitoring mechanism on the European continent.

Freedom of expression is safeguarded by Article 10 of the ECHR⁴¹. When interpreting this Article, the Court held that “freedom of expression constitutes one of the essential foundations of a democratic society, one of the basic conditions for its progress and for the development of every man”.⁴² The Court repeatedly emphasized that this Article is applicable not only to “information” or “ideas” that are favorably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb - this requires pluralism, tolerance and openness, without which there is no “democratic society”.⁴³

Because freedom of expression is not an absolute right, it can be limited and subject to interference. Interference with freedom of expression can take the form of a wide range of measures that generally manifest themselves in a “formality, condition, restriction or penalty”.⁴⁴

In its case law, the Court has identified the following categories of interference, which are obviously not exhaustive:

- Criminal conviction;
- Order to pay damages;
- Prohibition on publication;
- Confiscation of a publication;
- Disciplinary penalty;
- Arrest or detention of protestors;
- Written warning to the officials of an NGO that had organized public demonstrations.

To verify whether an interference complies with the Convention, the Court has established in its case law the three-part test: lawfulness, legitimacy and necessity of the interference in a democratic society. In what follows, we will highlight the

⁴¹ [European Convention on Human Rights of November 4, 1950](#)

⁴² [ECtHR Judgement of December 7, 1976 in Handyside v. the United Kingdom](#), para. 49

⁴³ [ECtHR Judgement of November 26, 1991 in Observer and Guardian v. the United Kingdom](#), para. 59

⁴⁴ [ECtHR Judgement of October 28, 1999 in Wille v. Liechtenstein](#), para. 43

fundamental issues for each element, to emphasize the complexity but also the importance of the exercise of freedom of expression.

Lawfulness

In order to be admissible, any interference with the freedom of expression under Article 10 must, in the first place, be “prescribed by law”. In this regard, the Court held that the concept of “prescribed by law” in the second paragraph of Article 10 not only requires that the impugned measure should have a legal basis in domestic law, but also refers to the quality of the law in question, which should be accessible to the person concerned and foreseeable as to its effects. The notion of “quality of the law” requires, as a corollary of the foreseeability test, that the law be compatible with the rule of law. In other words, there must be adequate safeguards in domestic law against arbitrary interference by public authorities.⁴⁵

Legitimacy (legitimate aim)

Article 10 para. (2) of the Convention lists nine legitimate aims for which limitations on freedom of expression may be justified: national security, territorial integrity or public safety, prevention of disorder or crime, protection of health or morals, protection of the reputation or rights of others, preventing the disclosure of information received in confidence, or maintaining the authority and impartiality of the judiciary.

The Court explained that these exceptions must be construed strictly, and the need for any restrictions must be established convincingly. The adjective “necessary”, within the meaning of Article 10 para. (2), implies the existence of a “pressing social need”. The Contracting States have a certain margin of appreciation in assessing whether such a need exists, but it goes hand in hand with European supervision, embracing both the legislation and the decisions applying it, even those given by an independent court.⁴⁶

Protecting national security

The Court held that there is little scope under Article 10 para. (2) of the Convention for restrictions on political speech or on debate of questions of public interest. Where the views expressed do not comprise incitements to violence – in other words unless they advocate recourse to violent actions or bloody revenge, justify the commission of terrorist offenses in pursuit of their supporter’s goals or can be interpreted as likely to encourage violence by expressing deep-seated and irrational hatred towards identified persons – Contracting States must not restrict the right of the general public to be informed of them, even on the basis of the aims set out in Article 10 para. (2), that is

⁴⁵ [ECtHR Judgement of January 20, 2020 in Magyar Kétfarkú Kutya Párt v. Hungary](#), para. 93

⁴⁶ [ECtHR Judgement of November 8, 2016 in Magyar Helsinki Bizottság v. Hungary](#), para. 187 and [ECtHR Judgement of April 30, 2019 in Kabis v. Russia](#), para. 82

to say the protection of territorial integrity and national security and the prevention of disorder or crime.⁴⁷

For instance, in *Feridun Yazar and Others v. Turkey*, it was held that sentencing the applicants for allegedly expressing support for an illegal armed organization in a public speech at a rally pursued the legitimate aim of protecting territorial integrity.⁴⁸

Necessary in a democratic society

The Court has developed in its case law the autonomous notion of “proportionality of an interference with the legitimate aim pursued”, which is determined in the light of the case as a whole, following criteria developed in the case law of the Court and using various principles and tools of interpretation: the existence of a pressing social need, the assessment of the nature and gravity of the sanctions, the existence of relevant and sufficient reasons.

The factors considered by the ECtHR in assessing whether an interference with the exercise of freedom of expression in the form of criminal liability is a necessary measure in a democratic society are:

- The political or social background against which the statements in question are made;
- Whether the statements, fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance;
- The means of communicating the statements;
- The statements’ direct or indirect capacity to result in negative consequences;
- Proportionality of the penalty.⁴⁹

In cases in which the content of an expression contains violent overtones, the Court has analyzed the existence of any indication of clear and imminent danger. For example, in *Gül and Others v. Turkey*, the Court held that well-known political slogans which were shouted during lawful demonstrations could not be interpreted as a call for violence or riot.⁵⁰

In another case, the Court held that if a group of persons calls for autonomy or even requests secession of part of the country’s territory – thus demanding fundamental constitutional and territorial changes – it does not automatically amount to a threat to the country’s territorial integrity and national security.⁵¹

⁴⁷ [ECtHR Judgement of September 15, 2015 in Dilipak v. Turkey](#), para. 62

⁴⁸ [ECtHR Judgement of September 23, 2009 in Feridun Yazar and Others v. Turkey](#), para. 22

⁴⁹ [ECtHR Judgement of August 28, 2018 in Ibragim Ibragimov and Others v. Russia](#), especially paras. 98-99 and 115-124; [ECtHR Judgement of May 9, 2018 in Stomakhin v. Russia](#), para. 108, in which criminal convictions were considered justified on the basis of Article 10 para. (2) of the ECHR in the case of “glorification of the Chechen separatists’ insurgence and armed resistance as well as the violent methods used by them”

⁵⁰ [ECtHR Judgement of June 8, 2010 in Gül and Others v. Turkey](#), para. 41

⁵¹ [ECtHR Judgement of October 2, 2001 in Stankov and the United Macedonian Organisation Ilinden v. Bulgaria](#), para. 97

At the same time, State authorities enjoy a wider margin of appreciation to restrict freedom of expression where remarks incite violence.⁵² However, unless a publication incites violence on the basis of ethnic hatred, the government should not initiate criminal proceedings against the media.⁵³

Freedom of expression is particularly important for political parties and their active members, and interference with the freedom of expression of politicians, especially where they are members of an opposition party, calls for the closest scrutiny on the Court's part. The limits of permissible criticism are wider with regard to the government than in relation to a private citizen, or even a politician.⁵⁴

According to the Court, in a democratic society based on the rule of law, political ideas which challenge the existing order and whose realization is advocated by peaceful means must be afforded a proper opportunity of expression.⁵⁵

On the subject of the withdrawal, and implicitly the suspension, of a broadcast license, the Court's findings in *NIT S.R.L. v. Moldova* are relevant, which was decided by 14 votes to 3 that there was no violation of the Convention⁵⁶:

- The Court reiterates that there can be no democracy without pluralism. Democracy thrives on freedom of expression. It is of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organized, provided that they do not harm democracy. In order to ensure true pluralism in the audiovisual sector in a democratic society, it is not sufficient to provide for the existence of several channels or the theoretical possibility for potential operators to access the audiovisual market. It is necessary in addition to allow effective access to the market so as to guarantee diversity of overall programme content, reflecting as far as possible the variety of opinions encountered in the society at which the programmes are aimed;
- The most careful scrutiny on the part of the Court is called for when the measures taken or sanctions imposed by the national authority are capable of discouraging the participation of the press in debates over matters of legitimate public concern;
- There is little scope under Article 10 para. (2) of the Convention for restrictions on political speech or on debate on matters of public interest;
- Article 10 of the Convention does not guarantee a wholly unrestricted freedom of expression even with respect to press coverage of matters of serious public concern;

⁵² [ECtHR Judgement of July 8, 1999 in Sürek v. Turkey \(no. 2\)](#), para. 34

⁵³ [ECtHR Judgement of April 22, 2010 in Fatullayev v. Azerbaijan](#), para. 116

⁵⁴ [ECtHR Judgement of February 1, 2011 in Faruk Temel v. Turkey](#), para. 55

⁵⁵ [ECtHR Judgement of September 25, 2012 in Eğitim ve Bilim Emekçileri Sendikası v. Turkey](#), para. 70

⁵⁶ [ECtHR Judgement of April 5, 2022 in NIT S.R.L v. Moldova](#)

- The fairness of proceedings and the procedural guarantees afforded are factors which in some circumstances may have to be taken into account when assessing the proportionality of an interference with freedom of expression.

As this report will also analyze the implications for freedom of expression of the new amendments to the Criminal code, the Court's findings on separatist speech are relevant.

Generally speaking, the Court considers that it is of the essence of democracy to allow diverse political programmes to be proposed and debated, even those that call into question the way a State is currently organized, provided that they do not harm democracy itself.⁵⁷

In assessing whether the interference was proportionate, the Court distinguishes between so-called peaceful or democratic separatist discourse and separatist discourse that is linked to the commission of offenses or acts which perpetuate violence. The Court has held that an interference with the freedom of expression of a political leader of the French Basque separatist movement was proportionate; the measure concerned a prohibition, valid throughout the period of his release on license, on disseminating works or making any public comment regarding the offenses of which he had been convicted, given that the applicant had still been entitled to express his views on the Basque question, as long as he did not mention these particular offenses.⁵⁸

The Court takes account of the context in which the discourse occurs, especially when separatist claims in a given region are accompanied by armed conflicts. Thus, although the concepts of national security and public safety must be interpreted restrictively, the Court has held that matters relating to the conflict in the Chechen Republic were of a very sensitive nature and therefore required particular vigilance on the part of the authorities.⁵⁹

The Court has held that if interference with freedom of expression is to be justified, separatist discourse (specifically in the form of slogans) must have an impact on national security and public order and present a clear and imminent danger with regard to these legitimate aims.⁶⁰

In addition to the standards set by the ECtHR, an authority at the Council of Europe level is the Venice Commission, an advisory body of independent constitutional law experts. Over the years it has adopted a number of advisory opinions dealing with various aspects of freedom of expression, and for the purposes of this report we note the following considerations.

⁵⁷ [ECtHR Judgement of May 25, 1998 in Socialist Party and Others v. Turkey](#), para. 47

⁵⁸ [ECtHR Judgement of November 12, 2015 in Bidart v. France](#), para. 42

⁵⁹ [ECtHR Judgement of May 9, 2018 in Stomakhin v. Russia](#), paras. 85-86 and [ECtHR Judgement of October 3, 2017 in Dmitriyevskiy v. Russia](#), para. 87

⁶⁰ [ECtHR Judgement of November 29, 2011 in Kılıç and Eren v. Turkey](#), para. 29-30 and [ECtHR Judgement of October 22, 2013 in Bülent Kaya v. Turkey](#), para. 42

The Venice Commission does not support absolute liberalism. While there is no doubt that in a democracy all ideas, even though shocking or disturbing, should in principle be protected (with the exception, as explained above, of those inciting hatred), it is equally true that not all ideas deserve to be circulated. Since the exercise of freedom of expression carries duties and responsibilities, it is legitimate to expect from every member of a democratic society to avoid as far as possible expressions that express scorn or are gratuitously offensive to others and infringe their rights.⁶¹

Advocating for the amendment of the Constitution through legal means could be viewed, under this provision, as a violation of the constitutional order – yet, most often, it is an acceptable form of expression. In its opinion on the Romanian constitution the Venice Commission stressed that “in the absence of an element of ‘violence’, the prohibition on expression favouring territorial separatism (which may be seen as a legitimate expression of a person’s views), may be considered as going further than is permissible under the ECHR”. In an opinion concerning the law of Azerbaijan on NGOs the Venice Commission held that “peaceful advocacy for a different constitutional structure are not considered to be criminal actions, and should on the contrary be seen as legitimate expressions”.⁶²

Also relevant are the Venice Commission's findings on safeguards offered by states in times of emergency. Rule of law-compliant emergency powers have important in-built guarantees against abuse: the principles of necessity, proportionality and temporariness. Respect for these principles must be subject to effective, non-partisan parliamentary control and to meaningful judicial control by independent courts.⁶³

Standards of criminal law

Any criminal offense must comply with the principles of legal certainty and predictability of criminal law, as well as the specificity of criminal liability, and more specifically, criminal offenses and applicable criminal penalties must be clearly and precisely regulated, so that anyone, either individually or with the legal assistance of a lawyer, can perceive from the wording of the relevant legal norm which acts or inactions attract criminal liability and which criminal penalty is applicable accordingly.⁶⁴

Criminal law provisions that are ambiguous or excessively broadly formulated leave room for the possibility of misinterpretation or arbitrary application of the law by the authorities, with the impact of having the effect of inducing a “chilling effect” on the exercise of fundamental rights and freedoms, especially when they are applied to

⁶¹ [Venice Commission Report no. CDL-AD\(2008\)026 of October 23, 2008 on the relationship between Freedom of Expression and Freedom of Religion: the issue of regulation and prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred](#), para. 73

⁶² [Venice Commission Opinion no. CDL-AD\(2015\)015 of June 22, 2015 on Media Legislation \(ACT CLXXXV on Media Services and on the Mass Media, Act CIV on the Freedom of the Press, and the Legislation on Taxation of Advertisement Revenues of Mass Media\) of Hungary](#), para. 23

⁶³ [Venice Commission Report no. CDL-AD\(2020\)014 of June 19, 2020 on respect for democracy, human rights and the rule of law during states of emergency: reflections](#), para. 121

⁶⁴ [ECtHR Judgement of January 27, 2015 in Rohlana v. the Czech Republic](#), para. 50

sanction journalists, human rights defenders, members of civil society organizations or individuals who express their views in a particular social context of public interest.

A chilling effect may arise, in the words of the Court, “where a person engages in “self-censorship”, due to a fear of disproportionate sanctions or a fear of prosecution under overbroad laws. This chilling effect works to the detriment of society as a whole.”⁶⁵

1.3. European Union

The Republic of Moldova is at a historic stage on its path towards accession to the European Union (hereafter - EU). As the Constitutional Court noted when interpreting Article 1 of the Constitution, “the orientation towards the European area of democratic values is a defining element of the constitutional identity of the Republic of Moldova.”⁶⁶

On June 23, 2022, the European Council granted candidate status to the Republic of Moldova⁶⁷, and on June 25, 2024, accession negotiations were formally opened. In July 2024, the bilateral screening, *i.e.* the process in which the state presents its legislation, national standards, and the steps it has taken and will take to implement the EU Acquis and align its legislation accordingly, was launched⁶⁸.

The EU Acquis comprises all EU acts and the case law of the EU Court of Justice in Luxembourg. Freedom of expression is enshrined in Article 11 of the Charter of Fundamental Rights of the European Union. According to this Article, “everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers”. Moreover, para. (2) of this Article expressly states that “freedom and pluralism of the media shall be respected”.⁶⁹

Pursuant to Article 52 para. (3) of the Charter, the meaning and scope of this right are the same as those guaranteed by the Convention. The limitations which may be imposed on it may therefore not exceed those provided for in Article 10 para. (2) of the Convention and in the case law of the Strasbourg Court.

The EU Guidelines on freedom of expression online and offline are relevant. For the purpose of this report, we draw attention to the following considerations of the Guidelines.

The EU considers freedom of expression to be a priority for candidate countries and potential candidates. The Copenhagen criteria cover freedom of expression and media plurality in their entirety and all countries seeking to accede to the Union must

⁶⁵ [Council of Europe Study of September 2016 on the freedom of expression and defamation](#), p. 24

⁶⁶ [Constitutional Court Judgement no. 24 of October 9, 2014 on the constitutionality of the Association Agreement between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community and its Member States, on the other hand, and of the Law no. 112 of July 2, 2014 on its ratification](#), item 2 of the operative part of the judgement

⁶⁷ [Moldova section on the website of the Council of the European Union](#)

⁶⁸ [Republic of Moldova Begins Second Stage of EU Accession Negotiations - Bilateral Screening](#)

⁶⁹ [Charter of Fundamental Rights of the European Union of December 7, 2000](#)

demonstrate a credible commitment to promoting freedom of expression by addressing all relevant aspects (legal, regulatory, judicial, market-related, etc.) where obstacles to freedom of expression persist.⁷⁰

The EU guidelines also contain a list of examples of actions that may violate or undermine the enjoyment of the right to freedom of opinion and expression, including:

- Legislative restrictions: any restriction on freedom of expression must be provided by law, may only be imposed for the grounds set out in international human rights law, and must conform to the strict tests of necessity and proportionality. Inconsistent and abusive application of legislation can be used to censor criticism and debate concerning public issues and to foster a climate of fear and self-censorship among media actors and the public at large. Denial of journalistic access, punitive legal barriers to the establishment or operation of media outlets and regulations that allow for the total or partial, ex-ante or post-facto censorship and banning of certain media are examples of legislative restrictions on the right to freedom of expression;⁷¹
- Abusive invocation of public morals, national security or protection of “national values”: the protection of national security can be misused to the detriment of freedom of expression. States must take care to ensure that anti-terrorism laws, treason laws or similar provisions relating to national security (state secrets laws, sedition laws, etc.) are crafted and applied in a manner that is in conformity with their obligations under international human rights law;⁷²
- Restrictions relating to media freedom and pluralism: lack of media freedom and pluralism may hinder freedom to receive and impart information, which in turn undermines both public trust in the media and the exercise of democracy itself. Moreover, a lack of media freedom and pluralism diminishes the media's ability to act as a public watchdog holding power to account. Also, it should be observed that freedom of expression is closely linked to the financing structure enabling a real independence for both, public and private media. Fair and independent media markets are essential for exercising the right to free expression. Regulatory activity should not be used to shape the media landscape to the taste of specific interest groups or the incumbents in power, excluding other groups or positions from the public debate;⁷³
- The lack of independence of regulatory bodies: The independence of regulatory bodies from governmental influence is a vital condition for free and independent media to flourish. Nomination and appointment procedures for all members of regulatory bodies should follow rules designed to protect their independence and impartiality. National regulatory bodies should be free from direct political

⁷⁰ [EU Guidelines on freedom of expression online and offline of May 12, 2014](#), p. 14

⁷¹ *Ibid.*, p. 26

⁷² *Ibid.*, p. 27

⁷³ *Ibid.*, pp. 28-29

interference and should have a positive obligation to protect human rights, including freedom of expression.⁷⁴

A key document at EU level is the European Media Freedom Act. In this respect, Article 21 states that legislative, regulatory or administrative measures taken by a Member State that are liable to affect media pluralism or the editorial independence of media service providers operating in the internal market shall be duly justified and proportionate. Such measures shall be reasoned, transparent, objective and non-discriminatory.⁷⁵

Any national procedure used for the purpose of adopting an administrative measure as referred to in paragraph 1 shall follow timeframes set out in advance. Such procedures shall be conducted without undue delay.⁷⁶

Any media service provider subject to a regulatory or administrative measure as referred to in paragraph 1 that concerns it individually and directly shall have the right to appeal that measure before an appellate body. That body, which may be a court, shall be independent of the parties involved and of any external intervention or political pressure liable to jeopardise its independent assessment of matters coming before it. It shall have the appropriate expertise to enable it to carry out its functions effectively and in a timely manner.⁷⁷

Furthermore, we cannot fail to mention the judgment of the General Court of the EU in *RT France v Council* of July 27, 2022.

By decision and regulation of March 1, 2022, the Council of the European Union adopted restrictive measures intended to prohibit, until July 31, 2022, the broadcasting activities of certain media outlets, including RT France, within or to the EU. According to the Council, the Russian Federation has engaged in a propaganda campaign justifying and supporting its aggression against Ukraine, targeting civil society in the EU and neighbouring countries, by grievously distorting and manipulating the facts and, in order to do so, using certain media outlets under the direct or indirect control of the leadership of the Russian Federation as conduits for that propaganda campaign. RT France brought an action for annulment before the General Court against the acts of the Council.⁷⁸

As regards the appropriate nature of the limitations, the General Court held that given the broad discretion that the Council enjoys in that respect, it could validly take the view that the restrictive measures at issue, which were targeted at the media outlets controlled by the Russian Federation engaged in propaganda actions in support of the

⁷⁴ [EU Guidelines on freedom of expression online and offline of May 12, 2014](#), p. 29

⁷⁵ [Regulation \(EU\) 2024/1083 of the European Parliament and of the Council of April 11, 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU \(European Media Freedom Act\)](#), Article 21 para. (1)

⁷⁶ *Ibid.*, Article 21 para. (2)

⁷⁷ *Ibid.*, Article 21 para. (3)

⁷⁸ [Press-release of the Court of Justice of the European Union no. 132/22 of July 27, 2022 on the case of RT France v Council](#)

military invasion of Ukraine by the Russian Federation, were capable of protecting the Union's public order and security and preserving the integrity of democratic debate within European society, peace and international security.⁷⁹

The temporary prohibition on the broadcasting of the applicant's content, as a measure forming part of the framework of a rapid, unified, graduated and coordinated response, implemented through a package of restrictive measures, also constitutes a measure appropriate for achieving the objective of exerting maximum pressure on the Russian authorities so that they bring an end to their actions and policies destabilising Ukraine and to the military aggression against Ukraine.⁸⁰

The General Court held, therefore, that the restrictive measures at issue are appropriate for achieving the objectives of general interest pursued by the EU.⁸¹

As regards the necessity of the limitations, the General Court ascertained whether other, less restrictive measures would have allowed the objectives of general interest pursued by the EU to be achieved.⁸²

In that regard, the General Court stated that, having regard to the nature of the applicant's continuous information channels, other restrictive measures, such as the prohibition on broadcasting in certain countries of the EU or a prohibition limited to certain ways of broadcasting the programmes and the limitation to certain types of content, or even the obligation to display a banner or a warning, are not as effective in achieving the objectives pursued by the contested acts, namely putting an end to the direct threats to the Union's public order and security and exerting maximum pressure on the Russian authorities so that they bring an end to the military aggression against Ukraine. As the Council and certain interveners have rightly observed, other measures would not have achieved the same outcome, since some of them – such as the prohibition on the broadcasting of certain content, in the case of a rolling news channel – would have been practically impossible to implement, while others – such as the obligation to display a banner or indeed a warning – would have been of limited effectiveness.⁸³

In particular, the General Court noted, first, that the restrictive measures at issue were adopted in an extraordinary context and one of extreme urgency, determined, in particular, by the intensification of the military aggression against Ukraine, and second, that they are an integral part of a package of measures on an unprecedented scale, adopted by the Council between the last week of February and the beginning of March 2022, in order to counter, with the peaceful instruments available to the Union, the Russian Federation's military aggression against Ukraine, to deter the Russian Federation from continuing such aggression and thus to protect the Union's borders.

⁷⁹ [General Court of the European Union Judgement of July 27, 2022 in case T-125/22, RT France v Council of the European Union](#), para. 193

⁸⁰ *Ibid.*, para. 194

⁸¹ *Ibid.*, para. 195

⁸² *Ibid.*, para. 196

⁸³ *Ibid.*, para. 197

In the context of the overall strategy of responding in a rapid, united, graduated and coordinated manner, implemented by the Union, the adoption of such measures, in that they effectively satisfy objectives of general interest recognized by the Union, may be regarded as necessary.⁸⁴

In addition, the General Court observed that the intensive coverage of the first days of the military aggression against Ukraine undoubtedly constituted a crucial time when the actions of a media outlet, such as the applicant, were likely to intensify and have a significant harmful effect on public opinion in the EU, by its operations involving manipulation and hostile influence, having regard to the tenor of the programmes broadcast by the applicant, referred to above, to justify and support the Russian Federation's aggression against Ukraine. In such a context, the Council could rightly take the view that it was essential for the EU to intervene in the first days of the outbreak of that aggression, by prohibiting, inter alia, the broadcasting of the applicant's content with the aim of temporarily suspending such a vehicle for propaganda in favour of the military aggression against Ukraine on the territory of the EU.⁸⁵

Thus, the General Court held that the Council did not make an error of assessment by considering that other, less restrictive measures would not have allowed the objectives pursued to be achieved.⁸⁶

1.4. Organization for Security and Co-operation in Europe

The Organization for Security and Co-operation in Europe (hereinafter - OSCE) is an international security organization, therefore we will review issues related to the protection of the territorial integrity and sovereignty of states and the right of peoples to self-determination under international law.

International law recognizes the right of states to take measures to protect their territorial integrity and sovereignty. This right is enshrined in the provisions of a number of international treaties and declarations, including the text of the Helsinki Final Act of 1975.⁸⁷

⁸⁴ [General Court of the European Union Judgement of July 27, 2022 in case T-125/22, RT France v Council of the European Union](#), para. 198

⁸⁵ *Ibid.*, para. 199

⁸⁶ *Ibid.*, para. 200

⁸⁷ [Helsinki Final Act of August 1, 1975](#), Article IV, which states that “the participating States will respect the territorial integrity of each of the participating States. Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force. The participating States will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal.”

The Helsinki Final Act contains ten key principles, including principles specifically referring to sovereignty and territorial integrity (Principles I and IV), and principles concerning the right to equality and self-determination of peoples (Principle VIII).⁸⁸

Sovereignty is a state's ability to exercise supreme authority over its territory and people, free from undue external interference. Respect for territorial integrity implies that nation-states should not attempt to promote secessionist movements or border changes in other nation-states, nor impose a border change through the use of force.⁸⁹

Any limitation of the fundamental rights that OSCE member states have committed themselves to respect must be in accordance with the criteria stipulated in international human rights instruments. Notably, the limitations on the exercise of the rights to freedom of expression, peaceful assembly, or association that are entailed in action against "separatism" must (i) be "prescribed by law" and must be clear, accessible and foreseeable; (ii) pursue a "legitimate aim" provided by international human rights law for the right in question; (iii) be "necessary in a democratic society", and respond to a pressing social need and be proportionate to the aim pursued; and (iv) be non-discriminatory.⁹⁰

Commitments under the OSCE also emphasize that „full respect for human rights, including the rights of persons belonging to national minorities, besides being an end in itself, may not undermine, but strengthen territorial integrity and sovereignty”.⁹¹

One of the relevant OSCE institutions is the OSCE Representative on Freedom of the Media. The Representative is mandated to observe media developments in the participating States and to advocate and promote full compliance with the Organization's principles and commitments in respect of freedom of expression and free media.⁹²

The right to free speech is not designed to call for aggression or to spread hateful rhetoric that serves discrimination, enmity or violence.⁹³

If enforced in a judicial manner that is compliant with the rule of law, prohibiting propaganda for war and hatred assists rather than restrict free expression. Clear-cut definitions of the crimes and a solid basis in normative acts are needed.⁹⁴

Arbitrary attempts to restrict media pluralism must be opposed. Media freedom depends on a healthy and vibrant and competitive media landscape which includes voices that provide a variety of news and views in different languages coming from

⁸⁸ [OSCE Comments of December 4, 2023 on the criminalization of "separatism" and related criminal offenses in Moldova](#), para. 10

⁸⁹ Ibid.

⁹⁰ Ibid., para. 16

⁹¹ [Istanbul Document of 1999, Charter for European Security: III. Our common response](#), para. 19

⁹² [Mandate of the OSCE Representative on Freedom of the Media](#)

⁹³ [Non-paper of the OSCE Office of the Representative on Freedom of the Media on "Propaganda and freedom of media", 2015](#), p. 66

⁹⁴ Ibid., p. 65

different countries. At all times, and especially in difficult times, blocking is not the answer; more debate is.⁹⁵

It is also pertinent to mention the OSCE findings stated in the Final Report of the ODIHR Election Observation Mission on the November 5, 2023 local elections, notably the following.

Restrictions on freedom of speech should be appropriate and proportionate to achieve a legitimate aim, using the least restrictive means possible. A suspension or withdrawal of broadcasting rights should be imposed only if the broadcaster is held to be in serious and repeated breach of a legitimate restriction on content by the media regulator or the court.⁹⁶

Prohibition on the dissemination of content should only be permissible in accordance with the test for restrictions on the right to freedom of expression under international law, namely that it is provided for by law, it serves legitimate aims, and it is necessary and proportionate to protect those aims.⁹⁷

2. ANALYSIS OF RECENT MEASURES OF THE MOLDOVAN AUTHORITIES WITH IMPACT ON FREEDOM OF EXPRESSION

2.1. Decisions to Suspend the Activity of Audiovisual Television Media Services

On December 16, 2022, the Commission for Exceptional Situations of the Republic of Moldova (hereinafter - CES) issued Decision no. 54, pursuant to Article 22 of Law no. 212/2004 on the state of emergency, siege and war, which sets out the powers the CES has during the state of emergency.

The CES has taken a number of measures under Decision no. 54, including the following under item 9:

“By derogation from Art. 84 para. (1) of the Audiovisual Media Services Code of the Republic of Moldova no. 174/2018 and Chapter XXII³ of the Civil Procedure Code no. 225/2003, in order to protect the national information space and prevent the risk of disinformation by spreading false information or attempts to manipulate public opinion, based on the list of natural and legal persons subject to international sanctions, set out in Annex no. 1 to the Decision of the Commission for Exceptional Situations no. 45/2022, and the available information on the control exercised by them over some media service providers, as well as the multiple findings in the monitoring reports of the Audiovisual Council on violations of the Audiovisual Media Services Code of the Republic of Moldova, implicitly the application of sanctions for the lack of accurate

⁹⁵ [Communiqué by OSCE Representative on Freedom of the Media on blocking television channels](#)

⁹⁶ [ODIHR Election Observation Mission Final Report on the November 5, 2023 local elections](#), p. 22

⁹⁷ *Ibid.*, p. 23

reporting of national events and the war in Ukraine, the broadcasting license for the following audiovisual television media services is suspended during the state of emergency: [Primul în Moldova, RTR Moldova, Accent TV, NTV Moldova, TV6, Orhei TV].⁹⁸

In addition, on October 30, 2023, the CES issued Decision no. 91, which supplemented the list of audiovisual television media services referred to under item 9 above with the following six additional entities: ORIZONT TV, ITV, Prime TV, Publika TV, CANAL 2 and CANAL 3.⁹⁹

Thus, the licenses of 12 audiovisual television media services in the Republic of Moldova have been suspended by the CES during the state of emergency.

According to the provisions of Article 84 of the Audiovisual Media Services Code of the Republic of Moldova, the Audiovisual Council has the exclusive competence to order the suspension of broadcasting licenses only after the gradual application of the sanctions provided for in paras. (4)-(8¹) of the same Article.

According to Article 83 of the same Code, the decisions adopted by the Audiovisual Council in the course of its control activity consist of the descriptive part, the reasoning and the operative part. The reasoning indicates the infringements detected during the control carried out or the lack thereof, the arguments and evidence upon which the conclusions on the results of the control carried out are based, as well as the legal provisions that the Audiovisual Council followed.

Moreover, according to the same Article 83, the Audiovisual Council holds public hearings with the interested parties, *i.e.* representatives of the public authority that filed the complaint, the natural or legal person that filed the petition or their representatives empowered by proxy, representatives of the civil society organization that filed the complaint, as well as representatives of the media service provider, the video-sharing platform service provider and the media service distributor concerned. An exception to the participation of interested parties is if the prior information procedure has been followed.

These provisions are intended to ensure transparency in the decision-making process regarding the application of sanctions, including the suspension of broadcasting licenses. Interested parties are therefore able to express their arguments and present their position on the allegations made, and the competent authority is required to issue reasoned decisions.

However, the CES derogated from these provisions and ordered the suspension of broadcasting licenses without hearing the representatives of the audiovisual television media services and without giving detailed reasons for its decision. It is not clear what

⁹⁸ [Decision no. 54 of December 16, 2022 of the Commission for Exceptional Situations of the Republic of Moldova](#), item 9

⁹⁹ [Decision no. 91 of October 30, 2023 of the Commission for Exceptional Situations of the Republic of Moldova](#), item 1

those “multiple findings in the monitoring reports of the Audiovisual Council on violations of the Audiovisual Media Services Code of the Republic of Moldova, implicitly the application of sanctions for the lack of accurate reporting of national events” were and why these findings were not made public to ensure public confidence in the impartiality and objectivity of the decisions taken by the CES, especially when they entail such a major impact on the right to receive and impart information.

Moreover, this derogation was made on the basis of the provisions of Article 22 of Law no. 212/2004 on the state of emergency, siege and war. It is important to note that ordering the suspension of broadcasting licenses is not included in the list of the CES's powers in this Article. We therefore deduce that the basis for this decision was the provision of Article 22 para. (1) letter i) which states that the CES “shall exercise other necessary powers”.

According to the case law of the European Court of Human Rights, any interference with the exercise of freedom of expression must cumulatively meet the following requirements in order to be considered legitimate under the Convention:

- It should be prescribed by law;
- It should seek to protect one of the legitimate aims under Article 10 para. (2) of the Convention;
- It should be necessary in a democratic society.

The Court reiterates that the expression “prescribed by law” requires that the impugned measure should have a basis in domestic law. It also refers to the quality of the law in question, which should be accessible to the persons concerned and foreseeable as to its effects, that is that it is formulated with sufficient precision to enable the persons concerned – if need be, with appropriate advice – to foresee, to a reasonable degree (that is reasonable in the circumstances), the consequences that a given action may entail and to regulate their conduct. The phrase “prescribed by law” implies, *inter alia*, that domestic law must be sufficiently foreseeable in its terms to give individuals an adequate indication as to the circumstances under which the authorities are entitled to resort to measures affecting their rights under the Convention.¹⁰⁰

For domestic law to meet those requirements, it must afford a measure of legal protection against arbitrary interferences by public authorities with the rights safeguarded by the Convention. In matters affecting fundamental rights, it would be contrary to the rule of law, one of the basic principles of a democratic society enshrined in the Convention, for a legal discretion granted to the executive to be expressed in terms of an unfettered power. Consequently, the law must indicate with sufficient clarity the scope of any such discretion conferred on the competent authorities and the manner of its exercise.¹⁰¹

¹⁰⁰ [ECtHR Judgement of October 6, 2020 in Karastelev and Others v. Russia](#), para. 78

¹⁰¹ *Ibid.*, para. 79

The authorities responsible for managing a state of emergency, by their very nature, are part of the executive branch¹⁰², and in light of this ECtHR case law, we note that in the case of CES decisions nos. 54 and 91 referred to above, in so far as they ordered the suspension of the broadcasting licenses of the 12 audiovisual television media services, they constituted an interference with the freedom of expression of those entities, which was not provided for by law, since the CES has no such power within the meaning of Article 22 of Law no. 212/2004 on the state of emergency, siege, and war.

When a measure restricts human rights, restrictions must be defined as precisely as possible and be necessary and proportionate to the aim pursued. Restrictions of human rights and freedoms, and derogations must, however, be regulated by law. The law must indicate in which cases limitations may be justified, and preferably, should define the states of emergency that may justify derogating measures, in order to create guarantees against abuse of the power to take restricting or derogating measures for other aims or to a larger extent than is allowed under domestic law and the ECtHR. This constitutes a vital guarantee of the maintenance of democracy and the rule of law.¹⁰³

Moreover, it is not clear and no explanation has been given as to why it was necessary for the CES to intervene into a matter that could have been dealt with by the Audiovisual Council, which is the competent authority at national level in the field of supervision and control of the audiovisual space of the Republic of Moldova, with express powers to apply sanctions on media entities.

It is relevant to note the following considerations of the ODIHR Election Observation Mission in its Final Report on the November 5, 2023 local elections:

“While a number of ODIHR EOM interlocutors criticized the CES decisions to suspend TV stations, arguing that the decision was insufficiently grounded in law, many stakeholders considered such action legitimate and proportionate in response to the disinformation on these stations, which they assessed as a threat to national security. However, under international human rights law, disinformation or false information do not constitute legitimate grounds for the prohibition of speech unless they amount to ‘any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, or ‘propaganda for war’. Furthermore, the Audiovisual Council had the authority to take additional and graduated legal measures against these stations, some of which it had previously and repeatedly fined for inaccurate reporting.”¹⁰⁴

¹⁰² [Constitutional Court Judgement no. 17 of June 23, 2020 on the constitutionality of certain provisions of Law no. 212 of June 24, 2004 on the state of emergency, siege and war and of certain provisions of Parliament Decision no. 55 of March 17, 2020 on the declaration of a state of emergency](#), para. 110

¹⁰³ [Venice Commission Opinion no. CDL-AD\(2006\)015 of April 4, 2006 on the protection of human rights in emergency situations](#), paras. 7 and 35

¹⁰⁴ [ODIHR Election Observation Mission Final Report on the November 5, 2023 local elections](#), p.21

Also, in this report, the ODIHR Election Observation Mission emphasized that the broad powers of the CES and the lack of a control mechanism over its decisions were of concern.¹⁰⁵

Furthermore, with regard to the requirement to protect one of the legitimate aims within the meaning of Article 10 para. (2) of the Convention, the CES invoked “the protection the national information space and prevent the risk of disinformation by spreading false information or attempts to manipulate public opinion”. At the same time, we note that no sufficient explanation or reason is given to establish that the activities of the 12 media entities pose a danger to the national information space. In this sense, when examining the third requirement and determining whether the interference was proportionate to the aim pursued, the ECtHR assesses whether the reasons adduced by the national authorities to justify the interference were relevant and sufficient. In doing so, the Court has to satisfy itself that the national authorities applied standards which were in conformity with the principles embodied in Article 10 and, moreover, that they relied on an acceptable assessment of the relevant facts.¹⁰⁶

As an example, in Latvia, the authority with express competences in the field of supervision and control over the activity of audiovisual television media services has ordered the prohibition of the activity of two media entities for a limited period of 1 and 4 years, issuing reasoned decisions which set out and assessed in detail the facts and circumstances leading to the prohibition.¹⁰⁷

However, in the case of the above-mentioned CES decisions, we note that there is no reasoning that would set out all the relevant elements to justify the adoption of such measures, which constitute a serious interference in freedom of expression, which may create doubts and public distrust in the legitimacy of these decisions.

State Practice shows that the gravest violations of human rights tend to occur in the context of states of emergency and that States may be inclined, under the pretext of a state of emergency, to use their power of derogation for other purposes or to a larger extent than is justified by the exigency of the situation.¹⁰⁸

The security of the State and of its democratic institutions, and the safety of its officials and population, are vital public and private interests that deserve protection and may lead to a temporary derogation from certain human rights and to an extraordinary division of powers. However, emergency powers have been abused by authoritarian governments to stay in power, to silence the opposition, and to restrict human rights

¹⁰⁵ [ODIHR Election Observation Mission Final Report on the November 5, 2023 local elections](#), p. 2

¹⁰⁶ [ECtHR Judgement of January 16, 2018 in *Saygılı and Karatas v. Turkey*](#), para. 29

¹⁰⁷ [National Council of Electronic Media Decision no. 86/1-2 on restricting the broadcasting of the program “Rossiyskiy Informatsionnyy Kanal Rossiya – 24” on the territory of Latvia](#) and [National Council of Electronic Media Decision no. 68/1-2 on restricting the broadcasting of the program “Rossija RTR” on the territory of Latvia](#)

¹⁰⁸ [Venice Commission Opinion no. CDL-AD\(2016\)006 of March 14, 2016 on the Draft Constitutional Law on “Protection of the Nation” of France](#), para. 71

in general. Strict limits on the duration, circumstance, and scope of such powers is therefore essential.¹⁰⁹

According to the Constitutional Court, the authorities have a general constitutional obligation to justify their own decisions, which can be deduced from Article 54 of the Constitution and from the standards of European constitutionalism, dictated by the culture of justification, in which every exercise of power must be justified.¹¹⁰

Judgment of the Constitutional Court no. 17 of June 6, 2012 is extremely important to the matter. In this Judgement, the Court held that the provisions of para. (8) of Article 38 of the Audiovisual Code relating to the immediate execution, until the matter is brought to court, of the decisions of the Audiovisual Council on the suspension and withdrawal of the license contravene not only the basic principles relating to entrepreneurial activity, but also the constitutional guarantees on the right of ownership of the founders of audiovisual institutions and their protection, enshrined in Article 46 of the Constitution, representing “an interference with the right to enjoy ownership”, in view of the immediate effect of those decisions and, as a consequence, the prevention of the licensee from continuing his business, and the fact that the licensee, in accordance with the case law of the ECtHR, has a “reasonable and legitimate expectation that the license will be valid for the time being and that he will be able to continue to derive benefits from the exercise of an activity on the basis of that license“, for which reasons the Court found the provisions challenged in this part to be unconstitutional.¹¹¹

Thus, the Court held that the immediate enforcement of the sanction in the form of suspension or withdrawal of the license is not justified in relation to a major societal interest.¹¹²

In this regard, we note that there are models in the EU in which the effects of license suspension and/or revocation decisions are suspended once they are challenged in court. We mention to this effect Czechia¹¹³, Lithuania¹¹⁴, Luxembourg¹¹⁵, and Slovakia¹¹⁶. There are other systems where the decision to suspend the effects is taken by the court, such as Austria¹¹⁷, Bulgaria¹¹⁸, and Romania¹¹⁹.

Moreover, the laws of some EU Member States also set a limited time limit within which the court must rule on the legality of decisions to suspend and/or revoke

¹⁰⁹ [Venice Commission Compilation no. CDL-PI\(2020\)003 of April 16, 2020 of opinions and reports on states of emergency](#), p. 4

¹¹⁰ [Constitutional Court Judgement no. 16 of October 3, 2023 on the constitutional review of Article 16 para. \(2\) letter e\) of the Electoral Code](#), para. 50

¹¹¹ [Constitutional Court Judgement no. 17 of June 6, 2012 on the constitutional review of certain provisions of the Audiovisual Code of the Republic of Moldova no. 260-XVI of July 27, 2006](#), para. 62

¹¹² *Ibid.*, para. 60

¹¹³ [Czech Law on the operation of radio and television broadcasting](#), Article 65 para. (1)

¹¹⁴ [Lithuanian Law on the provision of information to the public](#), Article 31 para. (17)

¹¹⁵ [Luxembourg Law on the organization of administrative jurisdictions](#), Article 9-1

¹¹⁶ [Slovak Law on broadcasting and retransmission](#), Article 64 paras. (7) and (8)

¹¹⁷ [Austrian Law on administrative court procedure](#), Article 22

¹¹⁸ [Bulgarian administrative procedure Code](#), Article 190 para. (1)

¹¹⁹ [Romanian audiovisual Law](#), Article 95² para. (2)

broadcasting licenses. We mention the following: Czechia – 90 days¹²⁰, France – 3 months¹²¹, Romania – 15 days¹²².

Moreover, the Constitutional Court has held that the Audiovisual Council is a body susceptible to politicization, and its decision to suspend or withdraw a broadcaster's license may lead to censorship or self-censorship, both of which are equally dangerous for freedom of expression and the public's right to information. The decision to “suspend” a broadcaster's license has the same effect as “cancelling” it.¹²³

Thus, on the basis of the findings of the Constitutional Court, we deduce that the courts of law are in the best position to rule on the infringement or non-infringement of audiovisual legislation by an audiovisual television media service, as they enjoy guarantees of independence, are bound by the standards of the European Convention on Human Rights in terms of procedural guarantees, and are not susceptible to being politically influenced.

Finally, we note that once the state of emergency ended on 31 December, 2023, the broadcasting licenses of the audiovisual television media services remained suspended, with the exception of RTR Moldova¹²⁴, and NTV Moldova¹²⁵, which have renounced their broadcasting licenses. The reason behind the continuous suspension of these entities is the decision taken by the Council for the Promotion of Investment Projects of National Importance.¹²⁶

2.2. New Mechanism for Suspending Audiovisual Television Media Services

The Council for the Promotion of Investment Projects of National Importance (hereinafter - CPIPNI) was established by Government Decision no. 585/2016. The basic functions of the Council are: to promote investment projects of national importance, as well as those of importance for state security, based on principles of transparency, in order to ensure the efficient utilization of investment opportunities.

The promotion of investment projects of national importance is carried out in accordance with the Regulation on the organization and functioning of the CPIPNI (Annex no. 3 to Government Decision no. 585/2016).

At the same time, the examination of investment projects of importance for state security is carried out in accordance with the provisions of Law no. 174/2021 on the mechanism of examination of investments of importance for state security and the

¹²⁰ [Czech Law on the operation of radio and television broadcasting](#), Article 65 para. (1)

¹²¹ [French Law on freedom of communication](#), Article 42-9

¹²² [Romanian audiovisual Law](#), Article 95² para. (1)

¹²³ [Constitutional Court Judgement no. 17 of June 6, 2012 on the constitutional review of certain provisions of the Audiovisual Code of the Republic of Moldova no. 260-XVI of July 27, 2006](#), paras. 74-75

¹²⁴ [Press-release of the Audiovisual Council of December 28, 2023](#)

¹²⁵ [Press-release of the Audiovisual Council of October 31, 2023](#)

¹²⁶ [Minutes no. 2 of the meeting of the Council for the Promotion of Investment Projects of National Importance of December 27, 2023](#), item 5

Regulation on the manner of examination and prior approval of investments of importance for state security (Annex no. 3 to Government Decision no. 585/2016).¹²⁷

At a meeting of the CPIPNI held on December 27, 2023, it was decided, among other things, to suspend the permits of the companies owning those audiovisual television media services that had been suspended by the CES, thereby suspending the activity of these services.

According to the Minutes of the above-mentioned meeting of the CPIPNI, the following was held:

“[...] the activity of companies in the field of television broadcasting/audiovisual services, which, according to Article 4 of Law no. 174/2021, are included in the areas of importance for state security, was discussed.

According to official data, 94 economic agents (investors) are active in the field of television broadcasting/audiovisual services. Despite the provisions of Articles 7 and 13 para. (1) of Law 174/2021, the economic agents in question do not have the prior approval of the Council and do not inform the Council about the occurrence of new circumstances related to the beneficial owners.

At the same time, the current situation in the field of audiovisual media denotes the existence of cases of investment activity ignoring the restrictions on investments in areas of importance for state security established in Article 6 of Law no. 174/2021. Thus, the Intelligence and Security Service identified inconsistencies at the following companies:

- SRL “Telesistem TV”
- SRL “Media Resurse”
- SRL “Archidoc Group”
- SRL “Media Pro Group”
- SRL “General Media Group Corp”
- SRL “Telestar Media”

Mr. Musteață¹²⁸ highlighted the fact that, as a result of the assessments carried out, connections between media companies and investors / beneficial owners assessed as persons eligible to be included in the list of restrictions on investment in areas of importance for state security were revealed. Thus, as beneficial owners of the nominated companies are Ilan ȘOR and Vladimir PLAHOTNIUC, who are:

- involved in money laundering activities;
- being prosecuted for serious or particularly serious crimes;
- convicted for corruption, money laundering;

¹²⁷ Section “Council for the Promotion of Investment Projects of National Importance” on the official website of the Government of the Republic of Moldova

¹²⁸ Director of the Intelligence and Security Service

- involved in activities affecting state security or public order, etc.

Following the above, in accordance with the provisions of Law no. 174/2021 and Government Decision no. 585/2016 on the Council for the Promotion of Investment Projects of National Importance, the Intelligence and Security Service has proposed:

- initiating the process of verification of economic agents (investors), active in the field of television broadcasting/ audiovisual services;
- temporarily suspending the validity of the permits of the companies SRL “Telesistem TV”, SRL “Media Resurse”, SRL “Archidoc Group”, SRL “Media Pro Group”, SRL “General Media Group Corp” and SRL “Telestar Media”, for the period of time necessary for the Council to collect and examine information on inconsistencies in beneficial ownership and indications of potential infringements.”

Based on this reasoning, the CPIPNI decided under item 5 of the Minutes that:

“It is necessary to temporarily suspend the validity of any permit issued to the legal entities in accordance with Annex no. 2 [which provides the six companies mentioned], as a result of the investments made, for the period of time necessary to provide the information required by Art. (2) of Law no. 174/2021, in order to obtain prior approval for the elimination of legal consequences”.

Therefore, under item 6, CPIPNI decided the following:

“The Public Services Agency, the National Commission for Financial Markets, the Audiovisual Council, the National Agency for Regulation of Electronic Communications and Information Technology, the State Company “Radiocommunications” and the distributors of audiovisual media services are notified of the obligation to implement the legal consequences arising from the lack of prior approval of investments, until obtaining prior approval and/or adopting another decision in this regard, according to Article 11 of Law no. 174/2021.

Moreover, according to the Minutes of its meeting of August 7, 2024¹²⁹, the CPIPNI ordered the suspension of the activity of another audiovisual media provider, specifically under item 2.2 of the Minutes, according to which the following was stated:

“Refusal of prior approval for investments of importance for state security for LLSRLC “REAL RADIO” (IDNO: 100900033253), with the withdrawal of the permits for the field of activity referred to in Article 4 letter m) of Law 174/2021 - television broadcasting/audiovisual services [...]”

¹²⁹ [Minutes no. 10 of the meeting of the Council for the Promotion of Investment Projects of National Importance of August 7, 2024](#), item 2.2

This power of the CPIPNI to order the suspension of permits, including legal entities holding broadcasting licenses, was introduced relatively recently, during the session of the Parliament of the Republic of Moldova of December 22, 2023, and entered into force the following day¹³⁰.

The aim of the law introducing this power was to “ensure the integrity and functioning of the electricity market”¹³¹, and the provisions establishing the power of the CPIPNI in question were included in the draft law by an amendment. More specifically, we refer to Article 13¹ para. (3) according to which “[...] The Council shall be entitled [...] to impose the temporary suspension of the validity of any permits issued to that party or to the legal person in which it has become a shareholder/associate as a result of the investments made. The Council's decision, as well as any subsequent decision to resume the validity of the suspended permit, shall be communicated to all public authorities issuing the respective permits and shall be enforceable from the moment of issuance.”

The reasoning given for the amendment in question was that it:

“[...] has been drafted in the context of the need for further strengthening of the regulatory framework for the examination of investments of importance for state security.

[...] the current context in which the Republic of Moldova finds itself, affected by an unprecedented security crisis against the background of the military aggression of the neighboring state - Ukraine, but also the indications of a hybrid war against our state by the Russian Federation, makes the legal interventions that are proposed to be made by means of this draft law (these amendments) more topical and will further strengthen the possibilities for prompt and effective intervention by the responsible authorities in order to exclude any risks to the security of the state (regardless of the particular area in which they might manifest themselves - energy, audiovisual services, aviation security, etc.).

[...] the solution that is [currently] enshrined in the law may prove to be excessively rigid, in that it does not entirely allow for rapid intervention by the state authorities, which would be temporary in nature and would allow for the provisional establishment of licensing regulations for other types of activity than those provided for by law, which would be necessary in particular in the context of exceptional situations and the need for effective management of the situation. The amendment comes to redress this current situation [...]”¹³²

¹³⁰ [Law no. 414 of December 22, 2023 on amending certain normative acts](#)

¹³¹ [Draft law on amending certain normative acts \(ensuring the integrity and functionality of the electricity market\) on the official website of the Parliament of the Republic of Moldova](#)

¹³² [Amendment to the draft on amending certain normative acts \(ensuring the integrity and functionality of the electricity market\) on the official website of the Parliament of the Republic of Moldova](#)

We note that according to the Law in question, the enforcement of the Council's decisions cannot be suspended in the event of an administrative appeal.¹³³

Thus, even in this case, the jurisprudence of the Constitutional Court mentioned in the previous section was not taken into account. The effects of the suspension of the mentioned companies' permits lead to the suspension of the audiovisual activity of the audiovisual television services owned.

We also note that the legislative procedure lacked transparency, especially taking into account the following reasoning from the Constitutional Court's Judgment no. 14 of June 20, 2024 on the constitutional review of Article II of Law no. 116 of May 16, 2024 on amending certain normative acts (adoption of organic laws by the Parliament):

“46. [...] according to Article 74 para. (1) of the Constitution, organic laws are adopted by a majority vote of the elected MPs, after at least two readings. In its case law, the Court has interpreted the meaning of the text “after at least two readings” in Article 74 para. (1) of the Constitution and established that it contains both a procedural and a substantive element. The procedural element means that Parliament must vote on the draft organic law in two readings.

47. [...] compliance with procedural requirements relating to the adoption of laws is just as important as compliance with the applicable requirements concerning the content of laws.

48. [...] Both the amending law and the amended laws are organic laws which, according to Article 74 para. (1) of the Constitution, are adopted by a majority vote of the elected MPs, after at least two readings.”¹³⁴

In that judgment, the Constitutional Court noted that the draft law no. 107, entitled “Law on the amendment of Law no. 25/2016 on the application of international restrictive measures”, was examined and voted in the first reading by the Parliament.

In the process of preparation for the second reading, two amendments supplementing Law no. 121/2007 on the administration and deetatization of public property were proposed to this draft. The Court noted that these two amendments (*i*) were, subsequent to the first reading, registered and annexed to draft law no. 107 and (*ii*) amend an organic law distinct from the one covered by the basic draft, which was voted on in the first reading.

The Court noted that the draft law no. 107, which also included the aforementioned amendments, was passed by Parliament in the second reading. However, the Court found that Article II of this Law amends, on the basis of the two amendments examined and passed by Parliament in a single reading, Law no. 121/2007 on the

¹³³ [Law no. 174/2021 on the mechanism of examination of investments of importance for state security](#), Article 14 para. (1)

¹³⁴ [Constitutional Court Judgement no. 14 of June 20, 2024 on the constitutional review of Article II of Law no. 116 of May 16, 2024 on amending certain normative acts \(adoption of organic laws by the Parliament\)](#)

administration and deetatization of public property, which is an organic law. In that regard, the Court found that there was no indispensable link between the subject-matter of the draft law adopted at first reading and the amendments to it adopted only at second reading.

The Court noted that the additions made to the Law no. 121/2007 on the administration and deetatization of public property were voted only in one reading and found that in this case the legislator did not comply with the requirements of Article 74 para. (1) of the Constitution. The Court could not overlook this procedural flaw and found that these provisions must be declared unconstitutional.

In the case of the new power of the CPIPNI to order the suspension of permits, including the suspension of legal entities holding broadcasting licenses, we note that the same exact procedural flaws are present.

Thus, the initial draft that was voted on in the first reading aimed at “ensuring the integrity and functionality of the electricity market” and transposed “Regulation (EU) No 1227/2011 of the European Parliament and of the Council of October 25, 2011 on wholesale energy market integrity and transparency, published in the Official Journal of the European Union L 326 of December 8, 2011”. The provisions of this draft referred to the Law no. 107/2016 on electricity and the Administrative Code.¹³⁵ It was passed on in the first reading on October 24, 2023.

In the meantime, in the process of preparation for the second reading, an amendment was proposed to this draft law on December 18, 2023, whereby the draft law was supplemented with new articles that concerned (i) the Law no. 235/2006 on the basic principles of regulation of entrepreneurial activity, (ii) the Law no. 160/2011 on the regulation by authorization of entrepreneurial activity, and (iii) the Law no. 174/2021 on the mechanism of examination of investments of importance for state security. The purpose of these new articles was to strengthen the regulatory framework regarding the examination of investments of importance for state security and did not relate to ensuring the integrity and functioning of the electricity market *stricto sensu*.

These amendments were only voted on during the second reading of this draft law on December 22, 2023.

Thus, according to the Judgment of the Constitutional Court of June 20, 2024, these amendments are unconstitutional, as the procedural requirement imposed by Article 74 para. (1) of the Constitution was not respected. We also note here the lack of an “indispensable link” between the subject matter of the draft law passed at the first reading and the amendments to it passed only at the second reading.

¹³⁵ [Initial text of the draft law on amending certain normative acts \(ensuring the integrity and functionality of the electricity market\)](#)

Moreover, the lack of transparency in the adoption of these amendments was raised by many non-governmental organizations in a joint statement of March 27, 2024, according to which:

“[...] in the process of drafting, voting on, and implementing the new legal mechanism, authorities have defied transparency in the decision-making process, underestimating the importance of a detailed and nuanced review of the proposed legislation, based on the recommendations of stakeholders and experts in the relevant field. [...] The general public and civil society were first made aware of the new legal mechanisms on December 29, 2023, Friday evening, when the first decision of CPIPNI was published, suspending the broadcast licenses of previously targeted television stations under the provisions of the Commission for Emergency Situations (CES) [...]”.¹³⁶

Based on the above, this new mechanism does not take into account the reasoning of the Constitutional Court, both from a procedural point of view regarding its legislative adoption and from a substantive point of view regarding the immediate enforceability of the CPIPNI decisions.

The lack of transparency, the “camouflaged” nature of this mechanism, and the statements of high-ranking state officials on the necessity of extending the suspension of broadcasting licenses of audiovisual television media services are likely to lead to the conclusion that these decisions are taken for political reasons and are devoid of factual and objective elements on the necessity of these serious interventions in the exercise of freedom of expression.

We also note that the provisions expressly empowering the Audiovisual Council to take such decisions to suspend and/or revoke broadcasting licenses, in transparent procedures with the participation of the legal entities concerned and with the issuance of a reasoned decision, have again been circumvented. However, as in the case of the above-mentioned CES provisions, the CPIPNI's decision was taken without any involvement of the audiovisual television media services¹³⁷, through the companies that own them, without any evidence being presented, and it was limited to a vague statement of reasons devoid of factual circumstances, which is likely to give rise to serious doubts as to the impartiality and objectivity of the decision.

This is all the more concerning as the CPIPNI's members are mainly political figures.¹³⁸

¹³⁶ [Statement Regarding the New Legal Mechanism for Suspending Licenses of Audiovisual Media Service Providers](#)

¹³⁷ This has been confirmed by representatives of the audiovisual television media services concerned

¹³⁸ See to this effect the list of members under [Annex 1 of Government Decision no. 585/2016 on the approval of the Regulation on the organization and functioning of the Council for the Promotion of Investment Projects of National Importance](#)

According to the Regulations on the organization and functioning of the Council for the Promotion of Investment Projects of National Importance¹³⁹, one of the tasks of the CPIPNI is the promotion of the investment projects. In the present case, it would be hard to believe, that the suspension of the audiovisual television media companies' activities without providing clear and convincing evidence could be considered a form of promotion of investment.

Moreover, such actions present a gross interference with the investors' property rights and could be considered a breach of the provisions of Article 1 of Protocol no. 1 to the ECHR.

2.3. Position of the Audiovisual Television Media Services

In the context of the preparation of this report, information was requested from the above-mentioned audiovisual television media services, as well as their position vis-à-vis the state interference in their activity and, consequently, in the exercise of their right to freedom of expression.

According to the replies received, the media entities in question have not been asked to present their positions on the reasons that led to the decisions of the national authorities, i.e. the CES and the CPIPNI, to suspend their activity.

Moreover, these media entities were not informed of the particular circumstances alleged against them and were in no way involved in the decision-making process. They did not have access to any evidence and/or information held by the national authorities and considered that the reasons put forward by the national authorities were not justified and did not correspond to reality.

The suspended audiovisual television media services consider that the real reasons for state interference in their work are due to the criticism of the ruling forces.

The position expressed by these media entities is objectively confirmed by the primary documents of the CES and the CPIPNI, which are publicly accessible on their websites¹⁴⁰, and which do not contain any mention regarding: (i) the participation of representatives of the audiovisual television media services in meetings, (ii) the provision to these representatives of information on the existence of legitimate reasons requiring the need for state intervention in their activity or (iii) the request for the position of these media entities on the information held and the alleged violations identified.

These practices are also contrary to Committee of Ministers Recommendation Rec(2000)23 of December 20, 2000 on the independence and functions of regulatory authorities for the broadcasting sector, according to which "Sanctions should be

¹³⁹ [Regulation on the organization and functioning of the Council for the Promotion of Investment Projects of National Importance, approved by Government Decision no. 585/2016](#)

¹⁴⁰ See the referrals made under sections 2.1. and 2.2. above

proportionate and should not be decided upon until the broadcaster in question has been given an opportunity to be heard.”¹⁴¹

A full and convincing reasoning, as well as allowing the audiovisual television media services to present their position regarding the allegations made, would have ensured legitimacy and public confidence in the suspension decisions of the two above-mentioned authorities and would have prevented the well-founded criticism and concerns expressed by several non-governmental and international organizations.

2.4. Criminal Offenses of “Separatism” and “Treason”

Amendment of the concept of the criminal offense of “treason”

On May 24, 2024, several MPs of the Republic of Moldova announced that “the concept of treason will be more clearly regulated in the legislation”.¹⁴² According to the authors' arguments, the amendment was drafted with the aim of strengthening the regulatory framework in the field of ensuring state security and combating criminal activity that targets the sovereignty, independence, unity, indivisibility, security, or defense capability of the Republic of Moldova.

In addition, it has been proposed to introduce an additional form of treason – providing help to a foreign state, a foreign organization, an anti-constitutional entity, or their representatives to carry out hostile activities against the security of the state.

According to the authors, this can be expressed by “disinformation campaigns, organized activity, over a period of time, designed to achieve hostile objectives by misinforming society, which is likely to prejudice the sovereignty, independence, unity, indivisibility, security or defense capacity of the Republic of Moldova”.¹⁴³

On May 24, 2024, at the Parliament, public consultations on this initiative were held, attended by representatives of the Intelligence and Security Service, the Ministry of Justice, and the Prosecutor General's Office. According to the press release on the Parliament's official website, we note that these public consultations, which were not attended by civil society, took place before the amendment itself was registered.¹⁴⁴

On May 30 and June 6, 2024, the proposed amendment was voted in Parliament. On June 7, 2024, i.e. less than 14 days after the registration of the amendment, the amendments entered into force.¹⁴⁵

¹⁴¹ [Committee of Ministers of the Council of Europe Recommendation Rec\(2000\)23 of December 20, 2000 on the independence and functions of regulatory authorities for the broadcasting sector](#), para. 23

¹⁴² [Press-release of the Parliament of the Republic of Moldova](#)

¹⁴³ [Argumentation of the amendment to the draft law on amending certain normative acts \(amending the Criminal Code and the Contravention Code\) no. 175 of June 7, 2023](#), p. 4

¹⁴⁴ [Press-release of the Parliament of the Republic of Moldova](#)

¹⁴⁵ [Draft law on amending certain normative acts \(amending the Criminal Code and the Contravention Code\) on the Parliament's website](#)

Thus, the text of the offense of treason reads as follows:

“Article 337. Treason

(1) Treason, that is intentional act committed by a citizen of the Republic of Moldova against the sovereignty, independence, unity, indivisibility, security or defense capacity of the Republic of Moldova in the interest of a foreign state, a foreign organization, an anti-constitutional entity or their representatives, expressed by

- a) siding with the enemy during war or armed conflict;
- b) espionage;
- c) divulging state secrets;
- d) providing help in carrying out hostile activities against the security of the state,

is punishable by imprisonment from 12 to 20 years.

(2) The acts referred to in para. (1) committed for material interest or by a public person, a person with a position of responsibility, a person with a position of public dignity shall be punishable by imprisonment for a term of 15 to 20 years with deprivation of the right to hold certain positions or to exercise certain activity for a term of 10 to 15 years.

(3) The acts referred to in para. (1) or (2) which have caused the death of the person shall be punishable by imprisonment of 16 to 20 years with deprivation of the right to hold certain positions or to exercise certain activity for a term of 10 to 15 years.

(4) A citizen of the Republic of Moldova who has entered into a criminal connection with a foreign state, a foreign organization, an anti-constitutional entity or their representatives for the purpose of carrying out a hostile activity against the Republic of Moldova, if he/she has not taken any action to carry out the criminal assignment received, shall be released from criminal liability for treason against the Motherland, has voluntarily declared to the authorities his or her connection with the foreign State, foreign organization, anti-constitutional entity or their representatives and has actively contributed to the detection or counteraction of the crime by identifying the persons with whom he or she has established and maintained contact.”¹⁴⁶

On June 6, 2024, the Chairwoman of the Parliament's Legal Committee on Appointments and Immunities said that the paragraphs on “disinformation campaigns” were deleted and replaced in the explanatory note of the draft law with the text “providing assistance for hostile activities against state security shall, also, be interpreted in conjunction with the provisions of Article 4 of the Law on State Security”.¹⁴⁷

¹⁴⁶ [Law no. 136/2024 of June 6, 2024 on amending certain normative acts \(amending the Criminal Code and the Contravention Code\)](#), Article I, item 151

¹⁴⁷ [StopFals Press-release on “What the legislative changes imply about “treason” and how pro-Kremlin sources manipulate on this issue”](#)

Article 4 para. (2) letter h) of the Law no. 618/2015 on state security, provides for threats to state security, including through “hostile propaganda or disinformation campaigns”¹⁴⁸. Thus, the deletion of the text “disinformation campaigns” from the explanatory note, has not changed the spirit and essence of these amendments, as long as the provision to be applied directly mentions “hostile propaganda or disinformation campaigns”.

We consider that the new amendments are too vaguely worded, and the concept of “hostile propaganda” is not regulated or implicitly explained by national legislation. In addition, the concept of “disinformation” has relatively recently appeared in national legislation. According to the latest amendments to the Audiovisual Media Services Code, disinformation is the intentional dissemination, by any means, in the public space, of information of a verifiably false or misleading nature which is likely to harm national security.¹⁴⁹

This analysis is in no way intended to discredit or reduce the major impact of misinformation or fake news in society. At the same time, a punitive solution based on concepts not regulated at the national level or relatively new concepts aimed at combating disinformation should not have the capacity to be used as a smokescreen to suppress legitimate political criticism. Especially if a mechanism to combat disinformation establishes criminal penalties, which are governed by a number of fundamental principles, among them the foreseeability of the law and the prohibition of extensive interpretation.

Thus, as long as concepts not regulated by national legislation, such as “hostile propaganda”, as well as the relatively recent concept of “disinformation”, for which there is no standardized approach at the international level¹⁵⁰, - can be the basis of an extremely harsh criminalization, such as treason, we consider that these amendments have the potential to cause violations of freedom of expression, and may produce arbitrary applications of the provision.

Until such time as the new provisions are formally amended or interpreted, the responsible authorities should take into account international standards on freedom of expression and refrain from broad interpretations.

Regarding legislative transparency, we consider the findings of the Venice Commission to be relevant. It has been highly critical of the adoption of laws involving complex, sensitive issues of major importance for society, without consulting the opposition, experts, and civil society, and without mandatory impact assessment.¹⁵¹

¹⁴⁸ [Law no. 618/2015 on state security](#), Article 4 para. (2) letter h)

¹⁴⁹ [Audiovisual Media Services Code of the Republic of Moldova](#), Article 1

¹⁵⁰ For example, Article 10 of the ECHR does not prohibit the dissemination of information, even if there are suspicions that the information is not true. See [ECtHR Judgement of September 6, 2005 in Salov v. Ukraine](#), para. 113

¹⁵¹ [Venice Commission Opinion no. CDL-AD\(2019\)014 of June 24, 2019 on Emergency Ordinances GEO No. 7 and GEO No. 12 amending the Laws of Justice](#), para. 11

In the same line of ideas, because the process of amending the new provision on treason has lacked transparency, and the final version is not in line with the standards of criminal law, some NGOs, as well as the parliamentary opposition, criticized this initiative.

Civil Society:

“The amendment to Moldova’s Criminal Code adopted by the parliament is alarming. The broadened definition of high treason is vague and open to abuse, posing a particular threat to the right to freedom of expression. This new definition of high treason could be used to target political dissent and critical voices under the guise of countering malevolent foreign influence. Worryingly, this law risks criminalizing views and opinions that should be protected under international law. This new definition of high treason could be used to target political dissent and critical voices under the guise of countering malevolent foreign influence”.¹⁵²

“The amendment recently adopted by the Parliament to the Criminal Code that refers to “treason” could generate certain abuses. The way the rule is worded could lead to wide and erroneous interpretations”.¹⁵³

Parliamentary opposition:

“The way in which it is done and the grounds on which it is based fall short and somehow violate the fundamental human rights enshrined in the supreme law of our country and in the Convention on Human Rights”.¹⁵⁴

Incrimination of “separatism”

On December 8, 2022, the draft law no. 456 was registered in the Parliament, which entailed a number of amendments to the Criminal Code of the Republic of Moldova. Without prior consultations, on December 22, 2022, the Parliament adopted the draft law in first reading. On February 2, 2023, i.e. less than 2 months after being registered in the Parliament, these amendments were adopted in the 2nd reading. According to the explanatory note, the authors argued the need to amend the regulatory framework to address new forms of threats to national security and sovereignty, providing a more robust legal framework to protect the interests of the Republic of Moldova.¹⁵⁵

Because the amendments are new for the legislation of the Republic of Moldova, but also because of the potential impact of these new provisions, public consultations were crucial. The time period between the 1st reading and the 2nd reading of approx. 40 days (during the winter holidays December 22, 2022 – February 2, 2023), can be interpreted as insufficient time to ensure genuine transparency in decision-making,

¹⁵² [Moldova: New definition of high treason passed by parliament threatens freedom of expression](#)

¹⁵³ [Promo-LEX lawyer Vadim Vieru: “The amendment recently adopted by the Parliament to the Criminal Code referring to treason could generate certain abuses”](#)

¹⁵⁴ [Legislative initiative: people receiving money from Russia to destabilize Moldova could be investigated for treason](#)

¹⁵⁵ [Draft law on amending the Criminal Code of the Republic of Moldova no. 985/2002 \(Art.134`23, 134`24, 337`1, etc.\) on the official website of Parliament](#)

including through the full involvement of civil society organizations, including the Ombudsman. The provisions entered into force on March 18, 2024.¹⁵⁶

Thus, the text of the crime of separatism is worded as follows:

“Article 340¹. Separatism

(1) Separatism, that is actions committed with the aim of separating a part of the territory of the Republic of Moldova, is punishable by imprisonment for a term of 2 to 6 years, a fine imposed on the legal entity in the amount of 3000 to 5000 conventional units, deprivation of the right to exercise a certain activity or liquidation of the legal entity.

(2) Instigation to separatism, as well as the distribution of objects, production and/or distribution, in any form and by any means, of materials and/or information inciting to separatism shall be punishable by a fine in the amount of 700 to 1500 conventional units or imprisonment for a term of up to 3 years, deprivation of the right to hold certain positions or to exercise certain activity for a term of 2 to 5 years, a fine, imposed on a legal entity, in the amount of 2000 to 3000 convention units, deprivation of the right to exercise certain activity or liquidation of the legal entity.

(3) The acts referred to in para. (1) or (2), committed by a public person, a person with a position of responsibility, a person with a position of public dignity, a foreign public person or an international official, shall be punishable by imprisonment for a term of 3 to 7 years, deprivation of the right to hold certain positions or to exercise certain activity for a term of 5 to 10 years.

(4) Actions referred to in para. (1):

- a) accompanied by the application of violence dangerous to life and health;
- b) accompanied by the use of firearms or explosive substances;
- c) accompanied by particularly extensive damage to property;
- d) committed at the behest of a foreign state, an unconstitutional entity or their representatives,

shall be punishable by imprisonment for a term of 7 to 12 years, deprivation of the right to hold certain positions or to exercise certain activities for a term of 7 to 15 years.

(5) Financing of separatism, i.e. the provision or collection, by any means, directly or indirectly, of property of any kind whatsoever, acquired by whatever means, for the purpose of using such property, in whole or in part, in the organization, preparation or perpetration of acts of separatism, or the provision of financial services for the purpose of using such property or services, or in the knowledge that it will be used, in whole or in part, for the organization, preparation or perpetration of separatist actions, shall be punishable by imprisonment for a term of 5 to 10 years with deprivation of the right to hold certain positions or to exercise certain activity for a term

¹⁵⁶ Ibid.

of 6 to 12 years, with a fine, imposed on the legal entity, in the amount of 12,000 to 15,000 conventional units with liquidation of the legal entity.”¹⁵⁷

Because in principle the criminalization of separatism does not contravene freedom of expression, the analysis will be limited only to the compliance of Article 340¹ of the Criminal Code, in its current form, with the international standards relevant to freedom of expression mentioned in Section 1 of this report.

Analyzing Article 340¹ in its entirety, we note some omissions and shortcomings that could lead to arbitrary application of the law:

- Para. (1) - the definition of “separatism” includes only the phrase “actions committed with the aim of separating a part of the territory”. It is not mentioned whether these actions are to be committed intentionally. There is also no provision for any form of violence to accompany such actions, as required by international standards on the protection of freedom of expression. However, the mere existence of the “separatism” provision could have an “chilling” effect on freedom of expression, including in relation to the media, which has a responsibility to create material on subjects of public interest;
- Para. (2) - establishes criminal liability for the act of “instigation to separatism”. Once again, the form of guilt is not specified, and it is not specified whether the existence of a danger or a form of violence accompanying the act of “instigation of separatism” is required;
- Para. (5) - the financing of separatism in its current form could be applied to a number of ordinary activities, including financial/economic benefits granted by the Government of the Republic of Moldova to local administration in the Transnistrian region.

Thus, we consider that the definition of “separatism” in the current version, as well as the other modalities of the objective side – “instigation to separatism” and “financing of separatism” - without any particular indication of intent, without mentioning the element of violence or the imminence of danger, does not meet the standards of criminal law on the quality of the law. Respectively, it leaves room for arbitrary application of criminal law.

Regarding transparency in the legislative process, we recall that the Venice Commission has been critical of the adoption of laws involving complex, sensitive issues of major importance for society, without consulting the opposition, experts, and civil society, and without mandatory impact assessment.¹⁵⁸ The adoption in final reading in less than 2 months, without a genuine consultation of civil society, did not meet the standards on legislative transparency.

¹⁵⁷ [Law no. 9/2023 of February 2, 2023 on amending certain normative acts](#), Article I, item 5

¹⁵⁸ [Venice Commission Opinion no. CDL-AD\(2019\)014 of June 24, 2019 on Emergency Ordinances GEO No. 7 and GEO No. 12 amending the Laws of Justice](#), para. 11

Below, we refer to comments from relevant organizations on the timeliness, transparency of adoption, and substance of this amendment.

OSCE - ODIHR:

“Due to the inherently vague nature of the term [separatism], broad range of conduct that may be captured by it and the potential impact on human rights and fundamental freedoms (including freedom of opinion and expression, association, peaceful assembly, political participation, rights of persons belonging to national minorities and self-determination), criminalization of so-called “separatism” raises fundamental human rights issues.

[...]

The criminal offense of “separatism”, as contemplated in the adopted amendments, risks criminalizing the mere expression of opinion or ideas and may also be used as a pretext to suppress peaceful advocacy or views for different territorial arrangements, autonomy or even independence.”¹⁵⁹

European Commission:

“The adoption of the amendments to the Criminal Code criminalizing “separatism” could have negative bearing on freedom of expression and association, rights for national minorities and non-discrimination as well as on Transnistrian conflict settlement dynamics.”¹⁶⁰

People’s Advocate (Ombudsman):

“Some actions taken by constitutional authorities in order to ensure state security could have an adverse effect in the negotiation process. In this regard, we specify that the amendment of the Criminal Code by Law no. 9 of February 2, 2023 on amending certain normative acts and the introduction of the criminal component “Separatism” in Article 340¹, could have revenge effects from the de facto authorities in relation to the citizens of the Republic of Moldova living on the territory left of the Dniester. However, this measure could be considered as an action to limit Tiraspol's tendency to violate human rights, through actions such as the adoption by the self-proclaimed authorities on the left bank of the Dniester River of the “Guretskii law” in 2022, an action harshly criticized by the Ombudsman.”¹⁶¹

¹⁵⁹ [OSCE Comments of December 4, 2023 on the criminalization of “separatism” and related criminal offenses in Moldova](#), p. 2

¹⁶⁰ [European Commission Report no. SWD\(2023\) 698 of November 8, 2023 in respect to the Republic of Moldova](#), p. 38

¹⁶¹ [Ombudsman Annual Report on the respect for human rights and freedoms in the Republic of Moldova in 2023](#), p. 56

Promo-LEX Association:

“The draft law did not comply with the rules on transparency in the decision-making process, being voted in the final reading on 2 February 2023, in less than two months from the registration of the draft law, on December 8, 2022.

[...]

Even though the Constitution of the Republic of Moldova prohibits the call for territorial separatism, we consider that the amendments in the form in which the provision sanctioning separatism and incitement to separatism was adopted are too vague and leave room for abuses by the constitutional authorities. [...] In the context in which both the crime of separatism and that of inciting to separatism leave room for extensive interpretations, which is inadmissible in criminal law, we consider that both the law enforcement bodies and the courts are to take into account the findings of the ECtHR in the cases regarding the separatist discourse.”¹⁶²

2.5. Situation in Autonomous Territories and Territories Without Effective Control

According to the Constitution¹⁶³, the Republic of Moldova is a sovereign, independent, unitary, and indivisible state. At the same time, administratively, the territory is divided into villages, towns, districts, and the autonomous territorial unit (ATU) Gagauzia. In addition, the localities on the left bank of the Dniester may be granted special forms and conditions of autonomy in accordance with the special statute adopted by organic law.

Because these two regions have a different status than the other localities, and the situation of freedom of expression in these territories has been the subject of several journalistic materials, including international ones, we have decided to address them separately in this analysis.

ATU Gagauzia

According to Article 111 of the Moldovan Constitution, Gagauzia is an autonomous territorial unit that has a special statute and represents a form of self-determination of the Gagauzian people. It is an integrant and inalienable part of the Republic of Moldova and it solves the political, economic, and cultural issues independently, within the limits of its competence, pursuant to the provisions of the Constitution, and in the interest of the whole population.¹⁶⁴

¹⁶² [Promo-LEX Report of December 7, 2023 on human rights in the Transnistrian region of the Republic of Moldova](#), pp. 10-11

¹⁶³ [Constitution of the Republic of Moldova of July 29, 1994](#)

¹⁶⁴ *Ibid.*, Article 111

The Constitutional Court noted that, unlike the other administrative-territorial units, the constituent legislator gave Gagauzia a distinct status, regulated by Article 111 of the Constitution.¹⁶⁵

In recent times, there have been quite a number of cases where local authorities have tried to restrict the exercise of freedom of expression. Each time, it has been decisions or initiatives of the local People's Assembly of Gagauzia:

- May 2022 – a ban on the media from documenting and disseminating on the territory of the ATU Gagauzia material aimed at reflecting and “propagandizing” non-traditional relations;¹⁶⁶
- July 2022 – aggressive behavior of members of the People's Assembly of ATU Gagauzia against journalists;¹⁶⁷
- December 2022 - conditioning press access to the meetings of the People's Assembly of Gagauzia;¹⁶⁸
- February 2024 – legislative initiative on the creation of an authorization mechanism for online media in Gagauzia;¹⁶⁹
- June 2024 – attempts to establish a “parallel” licensing mechanism for audiovisual media in the region.¹⁷⁰

Even though Gagauzia has a special territorial status, according to the Constitution, all the rights and freedoms provided for by the Constitution and the legislation of the Republic of Moldova must be guaranteed on its territory. Moreover, the control of compliance with the legislation of the Republic of Moldova in the autonomous territorial unit of Gagauzia is exercised by the Government, under the conditions of the law.¹⁷¹ Thus, the local authorities are to take into account the provisions of the Constitution, the case law of the Constitutional Court, and more recently also the case law of the Supreme Court of Justice, which has recently been given a stronger role in the standardization of judicial practice.

Initiatives that lead to the restriction of freedom of expression and freedom of the media must comply with international human rights standards. The special territorial statute does not provide prerogatives to adopt a regulatory framework contrary to constitutional provisions or international standards on freedom of expression and media.

The central authorities are to constantly monitor the human rights situation in the region, in particular freedom of expression and freedom of the media. In addition, in

¹⁶⁵ [Constitutional Court Decision on rejecting the application no. 22a/2014 for the constitutional review of Article 14 para. \(4\) of the Law no. 344-XIII of December 23, 1994 on the special legal status of Gagauzia \(Gagauz-Yeri\)](#), para. 35

¹⁶⁶ [Gagauzia intends to ban the media from “propagandizing” LGBT relations. What do experts say?](#)

¹⁶⁷ [Video: a *Nokta* journalist was forcibly pushed out of a meeting](#)

¹⁶⁸ [Media NGOs condemn the attempts of the People’s Assembly of Gagauzia to undermine the freedom of the press and demand the immediate annulment of the decision on the ‘accreditation’ of journalists](#)

¹⁶⁹ [Media NGOs condemn the attempts of Comrat authorities to undermine press freedom in Gagauzia](#)

¹⁷⁰ [Media NGOs Condemn Repeated Attempts by Gagauzia Authorities to Undermine Press Freedom and Call for Immediate Withdrawal of Legislative Initiative](#)

¹⁷¹ [Constitution of the Republic of Moldova of 29 July 1994](#), Article 111 para. (6)

accordance with its positive obligations, they are to intervene promptly, effectively, and within legal limits whenever there is a risk of violation of constitutional provisions. Dialogue and diplomatic levers in relation to local authorities must not be lacking in today's complicated context.

Administrative-territorial localities on the left bank of the Dniester and Bender Municipality (Transnistrian region)

The Transnistrian region is internationally recognized as part of the territory of the Republic of Moldova. However, the recognized authorities of the Republic of Moldova do not control this territory because of Russia's influence, particularly its economic, political and military spheres.

At the national level, the Transnistrian region is not regulated (in comparison to Gagauzia). However, according to the provisions of the Constitution, following a future regulation of the Transnistrian issue, “the localities on the left bank of the Dniester may be granted special forms and conditions of autonomy in accordance with the special status adopted by organic law”. In this regard, Law no. 173/2015¹⁷² could serve as a benchmark for the drafting of a potential law on the Transnistrian region.

Despite specific normative provisions on the situation in the Transnistrian region, the findings in *Ilascu and others* are relevant.

Where a Contracting State is prevented from exercising its authority over the whole of its territory by a constraining *de facto* situation, such as when a separatist regime is set up, whether or not this is accompanied by military occupation by another State, it does not thereby cease to have jurisdiction within the meaning of Article 1 of the Convention over that part of its territory temporarily subject to a local authority sustained by rebel forces or by another State.¹⁷³

Even in the absence of effective control over the Transnistrian region, Moldova still has a positive obligation under Article 1 of the Convention to take the diplomatic, economic, judicial, or other measures that it is in its power to take and are in accordance with international law to secure to the applicants the rights guaranteed by the Convention.¹⁷⁴

In recent years, the responsible institutions have noted a worsening of the human rights situation in the territory that is not under the control of the Moldovan authorities. This is confirmed by the impossibility of free access to this territory, in particular for the Ombudsman.¹⁷⁵

¹⁷² [Law no. 173/2015 on the basic provisions of the special legal status of the localities in the left bank of the Dniester River \(Transnistria\)](#)

¹⁷³ [ECtHR Judgement of July 8, 2004 in *Ilascu and Others v. Moldova and Russia*](#), para. 333

¹⁷⁴ *Ibid.*, para. 331

¹⁷⁵ [Ombudsman Annual Report on the respect for human rights and freedoms in the Republic of Moldova in 2023](#), p. 56

The trends and phenomena observed in the Transnistrian region are extremely worrying: political competition is severely restricted, freedom of the press is restricted, local authorities closely control the work of civil society.¹⁷⁶

These phenomena are confirmed by the latest local legislative changes, which have had a negative effect on fundamental human rights and freedoms:

- Entry into force of provisions requiring burdensome reporting by local NGOs, including on external funding, and prohibiting foreign-supported NGOs from engaging in “political activities”, which has a very broad definition;¹⁷⁷
- Criminalization of “insulting the President of the RM”;¹⁷⁸
- Criminalization of inconvenient persons under the guise of “extremism” provisions;¹⁷⁹
- Criminalization of “lodging applications with foreign law enforcement authorities”.¹⁸⁰

The numerous individual cases also confirm the precarious human rights situation, especially the flagrant violation of freedom of expression:

- People sentenced for criticizing the Russian invasion of Ukraine;¹⁸¹
- The murder of opposition party leader Oleg Horjan. He had been released from prison at the end of 2022 following a politically motivated conviction in 2018 for organizing illegal demonstrations and allegedly violent crackdown on the local militia;
- Journalists detained¹⁸² or having their access limited in the Transnistrian region.

Pending a definitive settlement of the Transnistrian issue, the Moldovan authorities must closely monitor the situation in Transnistria and do their utmost to protect the inhabitants of this region from possible abuses. And if such abuses occur, they must intervene promptly to stop them.

Unlike in the case of Gagauzia, we recognize that in the Transnistrian region, the Moldovan authorities have less leverage due to the lack of effective control over the territory. At the same time, taking into account the findings of the European Court of Human Rights and the positive obligation of the state, the Government, the Parliament, as well as the other authorities responsible for public policy and law enforcement bodies, must make every effort and exercise maximum diligence to provide protection to persons at risk of serious human rights violations or serious violations of their rights.

¹⁷⁶ [Transnistria section on the Freedom House website](#)

¹⁷⁷ To some extent, provisions similar to those in the Russian Federation and Georgia

¹⁷⁸ [In Transnistria, two pensioners sentenced to three years in prison for insulting Krasnoselsky](#)

¹⁷⁹ [“We pretend less to be a democratic state”. Tiraspol and Chisinau on the fight against criticism of the authorities in Transnistria. NM breakdown](#)

¹⁸⁰ [DOC. Krasnoselski has signed a law punishing people in the region who turn to the courts with prison sentences](#)

¹⁸¹ [Tiraspol regime convicts first person for open criticism of Ukraine's war](#)

¹⁸² [Media NGOs condemn the abuses by the self-proclaimed authorities in Tiraspol against the media and demand the immediate release of journalist Viorica Tătaru and Media NGOs condemn Tiraspol's illegal restrictions on media and call on the legitimate state authorities to intervene](#)

In the same line of ideas, the lack of considerable progress in recent years, and even the worsening of the situation in this territory, confirms the inaction and passivity of the central authorities.

Bearing in mind that more than 350,000 citizens of the Republic of Moldova live in the Transnistrian region, the actions of the authorities appear insignificant and ineffective in comparison with their needs and the scale of the problems and phenomena relating to the systemic violation of human rights, especially freedom of expression and freedom of the media.

The precarious situation in this territory is also confirmed by other institutions and organizations specialized in the promotion of human rights.

OSCE Parliamentary Assembly:

“The unresolved status of the region has led to the strengthening of local repressive mechanisms and tools in the Transnistrian region applied to residents, civil servants from the right bank of the Dniester/Nistru River, human rights defenders, civic and political activists, and journalists”.¹⁸³

Freedom House:

“Media freedom is restricted, authorities closely control civil society activity, and due process is not upheld by local authorities, who have carried out targeted arbitrary arrests”.¹⁸⁴

People’s Advocate (Ombudsman):

“In 2023, the situation in the uncontrolled region worsened. The de facto authorities in the breakaway region are only pretending to fulfill the obligations set by international and regional experts. It should also be noted that neither the People's Advocate nor the institution he heads (the Office of the People's Advocate) currently has free, unconditional and systematic access to the region, thus making it impossible to effectively fulfill the tasks of monitoring, promoting and protecting human rights in the Transnistrian region”.¹⁸⁵

Promo-LEX Association:

“Civil society and individuals expressing critical opinions are frequent targets of abuse, being accused of bringing an alleged danger to security.

¹⁸³ [Resolution adopted by the OSCE Parliamentary Assembly on the Deterioration of Human Rights Situation in the Transnistrian Region of the Republic of Moldova](#), para. 14

¹⁸⁴ [Transnistria section on the Freedom House website](#)

¹⁸⁵ [Ombudsman Annual Report on the respect for human rights and freedoms in the Republic of Moldova in 2023](#), p. 56

These attacks are disguised under the pretext of the need to maintain security, but in reality represent efforts to suppress any form of dissent.”¹⁸⁶

3. FREEDOM OF EXPRESSION AND ELECTIONS

As per the Constitution, national sovereignty resides with the people of the Republic of Moldova, who shall exercise it directly and through their representative bodies in the ways provided for by the Constitution.¹⁸⁷

Democracy in the Republic of Moldova shall be exercised under the conditions of political pluralism, which is incompatible with dictatorship or totalitarianism.¹⁸⁸

The will of the people shall constitute the basis of the State power. This will is expressed by free elections that are periodically conducted by way of a universal, equal, direct, secret and freely expressed ballot.¹⁸⁹

Every citizen shall be guaranteed the freedom of thought and opinion, as well as the freedom of expression in public by way of word, image, or any other means possible.¹⁹⁰

Since the source of sovereignty is the people of the Republic of Moldova, power in the state is exercised in the name and in the interest of the people. The will of the people is not only the basis for elaborating and determining state policies, but also the most important precondition for social peace.

Organizing and holding free and fair elections is one of the constitutional forms of determining the people's preferences.

The formulation of the opinions and preferences of the people can be carried out only when the people are fully informed about the work of all branches of state power, which exercise power on their behalf.

Accordingly, freedom of expression is a necessary precondition for informing the people objectively and multilaterally about the work of all state institutions, including by expressing disagreement and criticism of their work.¹⁹¹ However, the mistakes committed can only be identified in free discussions, which would include the positions of both those who govern the country and those who are in opposition, because democracy means governing by the majority with consideration of the minority's position. Correcting the identified mistakes is the only way to progress and national development. Moreover, it would help the country rulers to gain public confidence in the actions they take.

¹⁸⁶ [Promo-LEX Report of December 7, 2023 on human rights in the Transnistrian region of the Republic of Moldova](#), p. 42

¹⁸⁷ [Constitution of the Republic of Moldova of July 29, 1994](#), Article 2 para. (1)

¹⁸⁸ *Ibid.*, Article 5 para. (1)

¹⁸⁹ [Constitution of the Republic of Moldova of July 29, 1994](#), Article 38 para. (1)

¹⁹⁰ *Ibid.*, Article 32 para. (1)

¹⁹¹ See to this effect the considerations in section 1 of this report

The role of the media during election campaigns has been examined in detail in Committee of Ministers Recommendation CM/Rec(2007)15 of November 7, 2007, on measures concerning media coverage of election campaigns. In this document, the Committee of Ministers sets out a number of principles, among which we shall list the following:

“1. Non-interference by public authorities

Public authorities should refrain from interfering in the activities of journalists and other media personnel with a view to influencing the elections.

2. Protection against attacks, intimidation or other types of unlawful pressure on the media

Public authorities should take appropriate steps for the effective protection of journalists and other media personnel and their premises, as this assumes a greater significance during elections. At the same time, this protection should not obstruct the media in carrying out their work.

3. Editorial independence

Regulatory frameworks on media coverage of elections should respect the editorial independence of the media.

Member states should ensure that there is an effective and manifest separation between the exercise of control of media and decision making as regards media content and the exercise of political authority or influence.

[...]

1. General framework

During election campaigns, regulatory frameworks should encourage and facilitate the pluralistic expression of opinions via the broadcast media.

With due respect for the editorial independence of broadcasters, regulatory frameworks should also provide for the obligation to cover election campaigns in a fair, balanced and impartial manner in the overall programme services of broadcasters. Such an obligation should apply to both public service media and private broadcasters in their relevant transmission areas.

Member states may derogate from these measures with respect to those broadcast media services exclusively devoted to, and clearly identified as, the self-promotion of a political party or candidate.”¹⁹²

¹⁹² [Committee of Ministers of the Council of Europe Recommendation CM/Rec\(2007\)15 of November 7, 2007 on measures concerning media coverage of election campaigns](#), items 1-3 of section I. General provisions and item 1 of section II. Measures concerning broadcast media

From this it can be concluded that it is impossible to ensure free and fair elections under conditions of arbitrary restriction of freedom of expression. Every democratic state is obliged to ensure that voters are informed objectively and multilaterally, with free and unrestricted access to all sources of information.

A democracy should not fear debate, even on the most shocking or anti-democratic ideas. It is through open discussion that these ideas should be countered and the supremacy of democratic values can be demonstrated. Mutual understanding and respect can only be achieved through open debate. Persuasion through open public debate, as opposed to banning or repression, is the most democratic means of preserving fundamental values.¹⁹³

4. ROLE OF THE AUDIOVISUAL COUNCIL IN ENSURING FREEDOM OF EXPRESSION

According to the Audiovisual Media Services Code of the Republic of Moldova, one of the aims of the Code is to guarantee the right to editorial independence and freedom of expression.¹⁹⁴

Furthermore, Article 7 of the Code sets out the following provisions:

“(1) The state guarantees freedom of expression to media service providers and media service distributors.

(2) Media service providers and media service distributors are obliged to respect individuals' right to freedom of expression and the right to receive information.

(3) Media service providers and media service distributors shall make audiovisual media services available to the public in accordance with the provisions of this Code and Law no. 64/2010 on freedom of expression.

(4) The Audiovisual Council acts, *ex officio* and upon complaint, to ensure freedom of expression.

(5) Content control of audiovisual media services prior to broadcasting is prohibited.”¹⁹⁵

Based on para. (4) of Article 7, it is indisputable that the Audiovisual Council has a duty to ensure freedom of expression. When fulfilling this duty, the Audiovisual Council is entitled to act also *ex officio*.

Analyzing the materials posted on the website of the Audiovisual Council, no decisions were identified that were directed towards defending the rights of journalists or media service providers regarding freedom of expression. The entire activity of the Council is

¹⁹³ [Venice Commission Report no. CDL-AD\(2008\)026 of October 23, 2008 on the relationship between Freedom of Expression and Freedom of Religion: the issue of regulation and prosecution of Blasphemy, Religious Insult and Incitement to Religious Hatred](#), para. 44

¹⁹⁴ [Audiovisual Media Services Code of the Republic of Moldova](#), Article 2 para. (1) letter b)

¹⁹⁵ *Ibid.*, Article 7

mainly reduced to authorization, regulation and sanctioning, which creates the appearance that defending and ensuring freedom of expression are secondary goals in the work of the Audiovisual Council.

This situation is hard to understand, given that the activity of several media service providers, known for their critical stance towards the country rulers, was practically terminated without the presentation of plausible arguments and evidence by the CES or CPIPNI, authorities that did not have the express power to suspend the activity of audiovisual media service providers or to substitute the Audiovisual Council in the exercise of its sanctioning powers provided for by the Audiovisual Media Services Code.

These considerations raise doubts in society about the credibility of the Audiovisual Council and the role it should play in ensuring a free and pluralistic media space and a climate based on freedom of expression.

5. CONCLUSIONS AND RECOMMENDATIONS

5.1. CONCLUSIONS

Freedom of expression in the Republic of Moldova has become a subject of debate and controversy in the past few years in light of the measures taken by the national authorities. We recognize that the general context has changed in recent years, and the authorities have to adapt to this context. At the same time, authorities must be diligent in applying measures and act in good faith, especially when it comes to such a fundamental right as freedom of expression.

It is fair to say that freedom of speech lies at the foundation of democracy, and without upholding this freedom, no democratic system can exist.

According to international standards, except for hate speech and explicit incitement to violence, the authorities do not have a very wide margin of discretion.

Any interference must be lawful (meeting the quality requirements of the law), pursue a legitimate aim, and, finally, be proportionate.

Taking these elements into account, we are not convinced that the measures taken by the national authorities have complied with these fundamental standards and principles. Some aspects are flawed in terms of “lawfulness”, while others appear disproportionate.

This situation does not seem to be compatible with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, and with the case law of the Strasbourg Court, as well as with the provisions of the Constitution of the Republic of Moldova.

While applying extremely harsh restrictive measures, the national authorities failed to formulate in a clear and convincing manner their allegations toward the audiovisual media service providers, without manifesting factual grounds that led to such decisions. This approach has created additional hardship for the audiovisual media service providers exposed to arbitrary restrictions and put them in a situation of impossibility of organizing an effective defense.

The use of vague and overly general language to justify national security measures may undermine public confidence in their necessity and adequacy. This contradicts the standards set out in Section 1 of this report. The national authorities must offer a reliable justification that is based on clear and convincing evidence. The reasons provided by the national authorities must align with the principles and standards that apply to media service providers. They should also include detailed explanations and factual circumstances that justify their measures.

Suspending the broadcasting licenses of several audiovisual television media services, without the participation of the legal entities concerned, without

hearing them, without imputation of concrete facts, without presentation of clear and convincing evidence, without substantiation of the decisions taken, without compliance with the case law of the Constitutional Court on the enforceability of such decisions until a court decision is rendered, without taking into account the international standards set out above raises concerns both about the well-founded and proportionate nature of such a harsh restriction on freedom of expression and about the lack of political influence in taking such a drastic measure.

The adoption of a new mechanism for the effective suspension of broadcasting licenses of audiovisual media services in a manner that is non-transparent, camouflaged, and rushed (the initial draft law was registered on November 10, 2023, the amendment to include the mechanism in question in the initial draft law was made on December 18, 2023, and the final draft law was adopted on December 22, 2023) and without consulting civil society and experts in the field creates the appearance of unfairness and deception and, more importantly, contravenes Article 74 para. (1) of the Constitution, as per the case law of the Constitutional Court.

Using this mechanism to limit broadcasting companies' activity cannot be seen as a foreseeable interference and, accordingly, could be treated as an act of arbitrariness incompatible with the journalists' freedom of expression rights, capable of producing a harsh chilling effect, discouraging them from reporting on issues that present a large societal interest.

The amendments to Article 337 of the Criminal Code regarding treason were not only approved without genuine consultation with civil society but also have deficiencies in terms of the quality and foreseeability of the law. The quality of the law is a fundamental principle of criminal law that prevents abuses and, by extension, the extensive interpretation of the law. These arguments allow us to assert that the amendments under consideration were introduced without a broad consensus in society on their necessity and the legal formula chosen by the policy-makers. The reference to concepts that are not regulated by other normative acts, or to expressions that have appeared relatively recently in domestic law and for which there is no uniform international approach, confirms the shortcomings in the quality of the law.

Because **the provisions criminalizing separatism** were adopted less than 60 days after the registration of the draft law, and because civil society was not involved in the law-making process and was not given sufficient time to debate the draft law, we consider that there were shortcomings in legislative transparency. Public consultation is one of the true methods of democracy because it can ensure a high level of transparency.

At the same time, the current version of these provisions, without expressly mentioning the commission of the crime of separatism with intent and accompanied by the application or incitement to violence, does not meet the requirements of the

principles of criminal law and is contrary to international standards on freedom of expression.

These actions give the impression of hidden censorship and state authorities seeking revenge for the critical stance taken by the TV channels concerned, which have had their professional activities arbitrarily restricted. In the context of the upcoming election circles, such actions by those in power may be seen as an attempt to use administrative resources to restrict the political opposition's ability to freely express their views on matters of public interest and concern.

The situation of freedom of expression in autonomous territories or outside effective control also raises concerns, in particular as a result of intentions and practices to restrict media activity (Gagauzia) and to limit the space of civil society through local provisions contrary to the spirit of freedom of expression (Transnistrian region). The central authorities should pay close attention to these regions and constantly monitor the human rights situation in these territories. However, positive obligations require national authorities to take proactive action, including prompt reactions to curb potential gross violations.

5.2. RECOMMENDATIONS

For the Moldovan Parliament and Government:

- Decisions on the suspension and revocation of broadcasting licenses for audiovisual media services should be taken only by the Audiovisual Council, in compliance with the procedure and guarantees expressly provided for in the Audiovisual Media Services Code of the Republic of Moldova, and must be in accordance with the principles and standards formulated by the European Court of Human Rights in its case law on freedom of expression;
- The Audiovisual Council should fulfill its obligations in guaranteeing and ensuring freedom of expression, including by verifying the legality and justification of decisions taken by the Commission for Exceptional Situations and the Council for the Promotion of Investment Projects of National Importance in the field of limiting the activity of media service providers;
- Ensure compliance with the jurisprudence of the Constitutional Court in the sense of *(i)* expressly regulating in the legislation that the decisions to suspend the broadcasting licenses of audiovisual media services will only take effect after a court ruling has been handed down on them and *(ii)* ensuring a legislative procedure in compliance with the provisions of Article 74 para. (1) of the Constitution;
- Adhere to the rules of transparency of decision-making in any initiative with an impact on freedom of expression;
- Submit draft laws with major social importance to the Venice Commission for an expert analysis;

- Consider amending Article 340¹ of the Criminal Code [separatism] to criminalize only intentional acts of separatism that incite violence or that may actually cause violence;
- Ensure free access for journalists and media in the Transnistrian region.

For the parliamentary and extra-parliamentary opposition:

- File applications with the Constitutional Court in order to review the constitutionality of provisions potentially infringing freedom of expression, on both substantive and procedural grounds;
- Participate in public debates on draft laws impacting on freedom of expression;
- Draft legislative initiatives, which would ensure media independence, guarantee freedom of expression, and provide for criminal liability for arbitrary interference in the activity of media service providers.

For law enforcement bodies:

- Interpret and apply the current provisions on “treason” and “separatism” in the narrowest possible form, and in accordance with international standards on freedom of expression, in order not to allow arbitrary application of the criminal law;
- Examine as a matter of urgency the applications lodged with the national judicial authorities against decisions to suspend the broadcasting licenses/permits of audiovisual media services within the meaning of this report, given the “cancelling” effect that these decisions have on the media entities concerned;
- Base the standards developed by the UN, the Council of Europe, the EU, and the OSCE on the basis for any judicial, administrative, and executive acts or decisions aimed at restricting or threatening to restrict the exercise of freedom of expression.

For media and human rights NGOs:

- Monitor implementation and assess the impact of provisions on separatism and treason;
- Take a civic stance against any unjustified and/or arbitrary interference with the exercise of freedom of expression.

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