

## THE MIXED ELECTORAL SYSTEM: A NEW CHALLENGE FOR AUDIOVISUAL MEDIA IN MOLDOVA

By Olga Gututui

### Introduction

Parliamentary elections took place in Moldova on February 24, 2019. This was the first time that the Moldovan electorate voted under a mixed electoral system.<sup>1</sup> The change to a mixed system from the former closed-list proportional system was a challenge not only for Moldova's electoral process, but also for the local media that reported on that process. Recent legislation, including Moldova's Code of Audiovisual Media Services and the amended Electoral Code, imposed new reporting guidelines on media institutions aimed at ensuring accurate and unbiased electoral coverage.

This policy brief focuses on audiovisual media coverage during the 2019 parliamentary electoral cycle, analyzing the extent to which the media's *de jure* obligations under the mixed electoral system were implemented in reality. It concludes with a number of recommendations to improve the regulatory environment and decrease bias in electoral reporting.

### Setting the Stage: Media Ownership and Political Affiliations

It is widely acknowledged that Moldova's media and advertising sector is concentrated in the hands of a few persons,<sup>2</sup> opening the door to allow Moldovan media to be

used as a tool to manipulate public opinion and discredit political opponents.<sup>3</sup> These individuals include the highly influential leader of the Democratic Party of Moldova (PDM) Vladimir Plahotniuc, Corneliu Furculita of the Socialist Party of the Republic of Moldova (PSRM), and Dumitru Chitoroaga, representative of the Shor Party.

- 1 According to the new electoral system adopted in 2017, 50 Members of Parliament (MPs) are elected by proportional representation in a single nationwide constituency, with the other 51 elected from single-member constituencies.
- 2 "Media Policy Forum: Mass-media și sectorul publicitar din Republica Moldova sunt concentrate în mâinile câtorva persoane," Anticoruptie.md, March 13, 2018, <http://anticoruptie.md/ro/special/media-policy-forum-mass-media-si-sectorul-publicitar-din-republica-moldova-sunt-concentrate-in-mainile-catorva-persoane>
- 3 IJC Launched the 2018 Moldovan Press Status Index, Media-Azi, February 28, 2019, <http://media-azi.md/en/stiri/ijc-launched-2018-moldovan-press-status-index>

This picture has changed very little in recent years. In 2017, two media conglomerates affiliated with PDM and PSRM dominated the media landscape, controlling more than 80 percent of domestic television stations.<sup>4</sup> In 2018, a third and much smaller conglomerate consolidated, which is affiliated with the Shor Party. Currently, PDM and Mr. Plahotniuc control approximately 70 percent of the ownership landscape, and have affiliations with Publika TV, Prime TV, Canal 2, and Canal 3.<sup>5</sup> The Socialists maintain control over NTV Moldova and Exclusive TV.<sup>6</sup> Finally, the Shor Party is represented by Orhei TV, and *Televiziunea Centrala*.

### The High Cost of Advertising

Article 41, Paragraph 8 of the Electoral Code dictates that audiovisual media service providers must publish information on the conditions under which they will provide advertising and other services to electoral candidates. The Code also states that the price of broadcasting time for electoral candidates cannot exceed the price of commercial advertising. This regulation is impossible to enforce in practice, however, given that the law only compels media service providers to publically publish their prices for electoral advertising, while commercial prices may remain confidential.

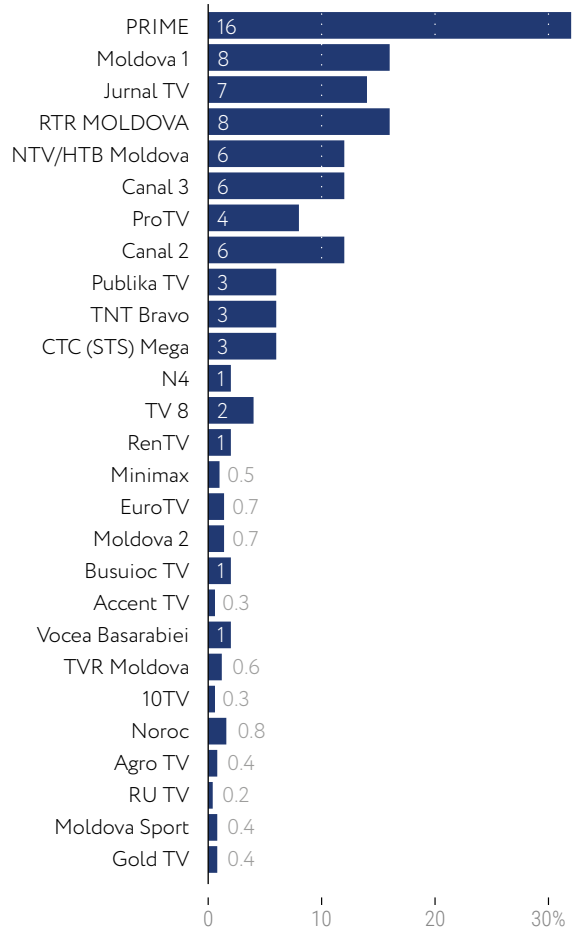
Unfortunately, failure to enforce these regulations during the 2019 parliamentary elections resulted in the substantial inflation of costs related to electoral advertising by politically affiliated television stations. For example, Prime TV and Publika TV, both controlled by PDM’s Plahotniuc, charged €4,000 and €2,000 per minute of advertising, respectively. Canal 2 and Canal 3, which belong to an affiliate of Plahotniuc, set a fee of €1,500 per minute. *Televiziunea Centrala* and Orhei TV, affiliated with the Shor Party, charged €1,500 and €1,000 respectively. Less prominent TV and radio stations set advertising prices ranging widely from approximately €20 – €900.<sup>7</sup>

The high price of advertising on some television stations created an unequal playing field for electoral candidates from the start of the campaign period, as only the most well-funded politicians and parties could afford to cover such costs. This substantially impacted their ability to reach a national audience. A study from November 2018 released by the Independent Journalism Center (IJC) shows that Prime TV has the biggest television market share in Moldova, amounting to the combined market shares of its closest competitors - Moldova 1 and Jurnal TV (see figure 1).<sup>8</sup> On

Figure 1. Market share percentage of each TV channel according to sociological study.

What channel did you watch yesterday in the following time intervals?

N = 807



4 Freedom House, Freedom in the World 2019: Moldova, <https://freedomhouse.org/report/freedom-world/2019/moldova>.

5 Ibid.

6 IREX, Media Sustainability Index 2018: Moldova, <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-moldova.pdf>

7 Statements by Broadcasters on Editorial Policy (Including Conditions of Providing Advertising Space), Central Electoral Commission of the Republic of Moldova, <https://a.cec.md/ro/declaratiile-radiodifuzorilor-privind-politica-editoriala-inclusiv-conditiile-de-3932.html>

8 National Media Audience Study, November 2018, <http://www.media-azi.md/ro/publicatii/%E2%80%9Estudiul-na%C8%9Bional-de-audien%C8%9B%C4%83-mass-media%E2%80%9D>

the other hand, a majority of the abovementioned stations also achieve national coverage, making them 65 – 96 percent accessible throughout Moldova.

### Biased Media Content

The electoral period for the 2019 parliamentary elections officially began on December 10, 2018.<sup>9</sup> While Article 13 of the Audiovisual Media Service Code dictates that media service providers must provide balanced reporting on all of the candidates, in practice each provider reported according to its political affiliations.<sup>10</sup>

The level of biased reporting intensified when the electoral campaign officially began on January 25, 2019. On the whole, reporting on the electoral campaign took on a highly negative tone, as candidates used media as a platform to heavily criticize one another. The target of criticism differed from one television station to another, depending on the political affiliation of the media provider. Unfortunately, a number of techniques to manipulate reported information were observed, such as: not granting the subject the opportunity to reply to criticism, praising a candidate and demonizing his/her opposition<sup>11</sup>; using slanderous labels to describe candidates; selecting biased sources; mixing facts and opinions; and omitting and/or manipulating news headlines and titles.

In addition to magnifying the criticism of opposition candidates, politically affiliated media providers also provided

distinct advantages to their parties and politicians. For example, Prime TV, Publika TV, Canal 2 and Canal 3 provided PDM candidates with both positive coverage and extra airtime (see figure 2). Similarly, the Shor Party-affiliated Orhei TV and *Televiziunea Centrala* predominantly reported on their own candidates, while PSRM’s Accent TV and NTV did the same. As a consequence, some electoral candidates benefited from hours of additional positive coverage, while others received negative coverage and/or significantly shorter airtime.

It is important to note that these forms of information manipulation are not new to Moldova. Domestic and international monitoring reports have long shown a discouraging trend: the 2015 local elections campaign introduced hidden political advertising to Moldova, the 2016 presidential campaign was notable for its use of fake news, and the 2018 local election campaign continued to use all of these forms of manipulation.<sup>12</sup> That the 2019 election campaign also continues these negative trends would seem to indicate that these behaviors are engrained in the Moldovan media environment, and are not easily corrected by legislative or electoral frameworks.

Despite this discouraging picture, it is important to note that not all media service providers followed this negative pattern of reporting behavior. The public television station Moldova 1 and two private TV stations – PRO TV Chisinau and TV8 – distinguished themselves with fair and balanced reporting for over 200 candidates across the political spectrum. Other private TV stations – Jurnal TV and RTR Moldova – reported

Figure 2. Monitoring of coverage of PDM and PSRM parties on Prime TV and Accent TV  
February 4 – 13, 2019

TV Station	Prime TV	Accent TV						
<b>Airtime for political and electoral subjects on primetime news reports</b>	02:40:06	02:15:51						
<b>Largest volume of airtime for a certain political party/electoral candidate</b>	Democratic Party (PDM) 01:01:00	Socialist Party (PSRM) 01:21:07						
	COVERAGE	COVERAGE						
	<table border="1"> <tr> <td>Positive 00:31:58</td> <td>Neutral 00:29:02</td> <td>Negative 00:00:00</td> </tr> </table>	Positive 00:31:58	Neutral 00:29:02	Negative 00:00:00	<table border="1"> <tr> <td>Positive 00:18:46</td> <td>Neutral 01:02:03</td> <td>Negative 00:00:18</td> </tr> </table>	Positive 00:18:46	Neutral 01:02:03	Negative 00:00:18
Positive 00:31:58	Neutral 00:29:02	Negative 00:00:00						
Positive 00:18:46	Neutral 01:02:03	Negative 00:00:18						

9 Calendar to Carry Out Actions of Organizing Elections for the Republic of Moldova Parliament on February 24, 2019, Central Electoral Commission of the Republic of Moldova, [https://cec.md/storage/ckfinder/files/Program\\_calendaristic\\_Alegeri%20Parlamentare\\_24\\_02\\_2019.pdf](https://cec.md/storage/ckfinder/files/Program_calendaristic_Alegeri%20Parlamentare_24_02_2019.pdf)  
 10 CA a sancționat din nou cele opt posturi TV, pe care le-a avertizat public săptămâna trecută, Media-Azi, February 21, 2019, <http://media-azi.md/ro/stiri/ca-sanc%C8%9Bionat-din-nou-cele-opt-posturi-tv-pe-care-le-avertizat-public-s%C4%83pt%C4%83m%C3%A2na-trecut%C4%83>  
 11 Raport de monitorizare II, February 21, 2019, [http://www.audiovizual.md/files/Raport%20de%20monitorizare%20II\\_0.pdf](http://www.audiovizual.md/files/Raport%20de%20monitorizare%20II_0.pdf)  
 12 OSCE/ODIHR Limited Election Observation Mission Final Report, <https://www.osce.org/odihr/elections/moldova/178226?download=true>

on a smaller number of candidates, but followed the same balanced approach. These positive examples demonstrate that proper media coverage of electoral campaigning in Moldova's mixed electoral system is fully possible.

It should also be noted that a legal contradiction in the Regulation on the Coverage of the Electoral Campaign in the Mass Media of Moldova further complicates the task of balanced media coverage, even for well-meaning media service providers. According to the regulation, providers have the right to decide whether or not they will report on the electoral campaign or broadcast electoral advertising.<sup>13</sup> Regardless of this choice, however, all television stations are also legally obligated to organize and broadcast electoral debates. This legal contradiction puts additional burdens on some television stations, especially those that are limited in size and capacity or have a non-political thematic focus (entertainment, children, religion, etc.).

## New Tactics of Control

The 2019 parliamentary electoral period also witnessed the increased use of a new tactic by politicians aimed at controlling the media narrative – namely, the restriction of unfavorable media outlets from attending events of public interest. For example, on December 20, 2018 a TV8 reporter was harassed and refused entry to a public press conference organized by the Șor Party, despite having received a formal invitation.<sup>14</sup> As grounds for the refusal, a Șor Party representative cited disagreement with TV8's editorial policy. Similar reasons were invoked by representatives of the Democratic Party, who also banned journalists from TV8 and Jurnal TV from accessing public conferences and briefings on various occasions. Among the most serious incidents during the electoral period was the ban of Jurnal TV filming crews from attending an Orhei Municipal Council Meeting on January 21, 2019.<sup>15</sup>

Often, these restrictions to access public events have coincided with efforts to harass and intimidate journalists during the course of their reporting activities. This intimidation took a violent turn on February 15, when a BTV cameraman was hit by a car allegedly belonging to a parliamentary candidate from PDM.<sup>16</sup>

It is important to note that these actions have been taken in direct violation of Article 4 of the Law on Freedom of Expression, which stipulates that the media has the duty to inform the public on matters of public interest, and that the deliberate obstruction of media or journalistic activity is a violation of the Criminal Code. However, while journalists filed police reports in some cases, the authorities have failed to take appropriate action to date.

13 Regulamentul privind reflectarea campaniei electorale la alegerile parlamentare și referendumul republican din 24 februarie 2019 în mijloacele de informare în masă, aprobat la 21 decembrie 2018, <http://www.audiovizual.md/files/Regulamentul%20CEC%20de%20reflectare%20in%20mass%20media%202019.pdf>

14 "Reporterului TV8 i s-a interzis accesul la o conferință de presă a partidului Șor," TV8, December 20, 2018, [tv8.md/2018/12/20/reporterului-tv8-i-s-a-interzis-accesul-la-o-conferinta-de-presa-a-partidului-sor/?fbclid=IwAR3gLViZF-4hQGFZF7t2IOz2mcef\\_A7XU4vIcuMoZSRoUPXEqekosL4TeF8](http://tv8.md/2018/12/20/reporterului-tv8-i-s-a-interzis-accesul-la-o-conferinta-de-presa-a-partidului-sor/?fbclid=IwAR3gLViZF-4hQGFZF7t2IOz2mcef_A7XU4vIcuMoZSRoUPXEqekosL4TeF8)

15 "Jurnal TV, interzis la ședința Consiliului Municipal Orhei," Jurnal TV, January 22, 2019, <http://jurnal.md/ro/news/4880c49f4e1f3beb/jurnal-tv-interzis-la-sedința-consiliului-municipal-orhei.html>

16 "Cameramanul de la BTV a solicitat Poliției, CEC și CA să examineze cazul de agresiune și intimidare a sa de către candidatul electoral PD Serghei Buzurnăi," Media-Azi, February 22, 2019, <http://media-azi.md/ro/stiri/cameramanul-de-la-btv-solicitat-poli%C8%9Biei-cec-%C8%99i-ca-s%C4%83-examineze-cazul-de-agresiune-%C8%99i>

## Media Monitoring During the Electoral Campaign

In Moldova, the Audiovisual Council serves as the regulatory authority for broadcasting, and is responsible for monitoring media during elections. During the electoral period it is the responsibility of the Council to monitor a representative sample of TV channels<sup>17</sup> to determine the extent to which the media ensures the impartiality and balance of news coverage (i.e., presents the main arguments of all relevant parties and avoids any form of discrimination). When violations are found, the Council has the authority to sanction media service providers with financial penalties of up to 30 thousand lei (approximately €1,500).

According to the amended Electoral Code, the Audiovisual Council's monitoring activities cover the 30-day electoral campaign, from January 25 to February 24 (Election Day). These 30 days are divided into three discrete monitoring periods of ten days each (January 25 – February 3,<sup>18</sup> February 4 - 13,<sup>19</sup> and February 14 - 24). The previous provisions of the Electoral Code required a longer monitoring period of 60 days. In the current election cycle, media NGOs affiliated with the Civic Coalition for Free and Fair Elections – the Independent Press Association (API) and Independent Journalism Center (IJC) – also conducted monitoring activities from January 9 - 24,<sup>20</sup> in addition to the period of January 25 - February 24 (divided into a series of four seven-day monitoring periods).<sup>21</sup> However, given that the electoral period officially started on December 10, 2018, a substantial part of this period was not officially monitored.

In addition to the general monitoring activities described above, the Audiovisual Council also has the authority to investigate notifications and complaints regarding legal violations by media providers. In the 2019 parliamentary election period, the Council received a total of 13 complaints, which were examined in public hearings. Where violations were found to have been committed, relevant media service providers were issued public warnings and fines of 5,000 lei (approximately €250).

Unfortunately, the Council's work to investigate complaints and NGO efforts to extend the scope of monitoring were not adequate substitutes for monitoring the full electoral period. As this analysis has demonstrated, a number of violations occurred outside of the Council's 30-day monitoring period.

For example, media institutions began biased reporting of election-related topics quite early, in clear violation of the Electoral Code's stipulation that electoral campaigning may begin no earlier than 30 days before Election Day.

### Conclusions:

In conclusion, the evidence suggests that audiovisual media coverage in Moldova has changed very little from election to election, regardless of the formal structure of the electoral system. A majority of media service providers continue to favor their politically affiliated candidates using familiar techniques from past elections; meanwhile, the number of providers that produce fair and balanced reporting remains very small.

In the end, the responsibility lies with each media institution to provide accurate and unbiased information to the public in accordance with Moldovan law and journalistic ethical standards. However, current regulatory measures could be improved to better identify violations of relevant law and punish those responsible. In the first place, flaws in the Audiovisual Council's regulatory tools leave the door open to impunity in reporting. For example, the Council's scope of monitoring of only 30 days reduces the likelihood that violations in first half of the electoral period will be identified and addressed. The Council's decision to release monitoring reports in ten day periods is also problematic, as it delays putative measures from taking effect in a timely manner. By the time a monitoring report is released and sanctions are applied, the damage is already done to the informational landscape. In addition, the punitive measures available to the Audiovisual Council – the issuance of public warnings and a modest fine – are not effective at deterring negative behavior, especially for the largest and most financially-endowed media service providers.

Finally, the 2019 parliamentary election period also saw the increased use of tactics by certain politicians and political parties to intimidate journalists and restrict their access to public events. Given that deliberate impediment of journalistic activity is a criminal offense, this issue points to the larger problem of the state's failure to impartially enforce the rule of law.

17 For the 2019 parliamentary elections, the Audiovisual Council monitored the following media services providers: Moldova 1, TV8 Prime, Publika TV, Canal 2, Canal 3, Accent TV, PRO TV CHISINAU, Jurnal TV, RTR Moldova, Orhei TV and Televiziunea Centrala.

18 Raport de monitorizare I, February 15, 2019, <http://www.audiovizual.md/files/Raport%20de%20monitorizare%20a%20posturilor%20TV%2C%20perioada%2025%20ianuarie%20-%2003%20februarie%202019.pdf>

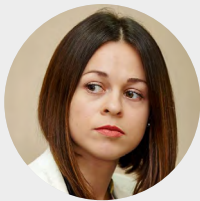
19 Raport de monitorizare II, February 21, 2019, [http://www.audiovizual.md/files/Raport%20de%20monitorizare%20II\\_0.pdf](http://www.audiovizual.md/files/Raport%20de%20monitorizare%20II_0.pdf)

20 API, "Monitorizarea mass-media în perioada electorală pentru alegerile parlamentare 2019 (raport nr. 1, January 9-24, 2019), [http://www.api.md/upload/PDF/Raport\\_nr\\_1\\_monitorizare\\_mass-media\\_09-24.01.2019\\_.pdf](http://www.api.md/upload/PDF/Raport_nr_1_monitorizare_mass-media_09-24.01.2019_.pdf)

21 API, Monitorizarea mass-media în Campania electorală pentru alegerile parlamentare 2019, <http://api.md/page/ro-2019-342>

## Recommendations:

- The fundamental purpose of media is to provide citizens with unbiased information on current events, political and otherwise. In order to fulfill this purpose, it is essential that media service providers find ways to detach from the interests of their patrons. The experience of some media providers in the 2019 elections demonstrates that this is not an impossible task. The positive examples of PRO TV Chisinau, TV8 and Moldova 1 television channels should be studied so that they can serve as models for others.
- The Electoral Code should be amended to set clear standards for the cost of electoral advertising. This should include setting a minimum and a maximum price per minute of electoral advertising, so that all electoral competitors will operate under equal conditions and have the opportunity to advertise on all media platforms.
- The right of media service providers not to cover the election campaign should be extended to allow them to refrain from organizing electoral debates. This will both rectify a current contradiction in governing legislation and allow thematically-focused media outlets to avoid covering sensitive topics for which they may lack the necessary capacity or expertise.
- The Audiovisual Council's authority to monitor media violations and take punitive actions against offenders should be reconsidered. A good first step is to alter the period of monitoring per report from ten to seven days. This will ensure that sanctions may be applied with greater frequency and in a timelier manner.



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