

THE FOURTH ESTATE IN THE MAKING: REGULATION AND REFORM OF MEDIA IN MOLDOVA

by Laura Zghibarta

Introduction

In recent years, Moldova's media sector has been defined by a range of negative characteristics, including monopolization of the media market by those in power, information manipulation and intimidation of journalists, and attempts by authorities to censor independent media. The decline of the Democratic Party in the summer of 2019 and the loosening of its hold on the media allowed a new government under Prime Minister Maia Sandu to focus on the underlying, technical issues of the sector. However, despite the commitment to reform, authorities failed to properly tackle the shortcomings of the legal and regulatory frameworks for media, or to free the sector from political interests. Currently, there is growing concern that these issues may facilitate a re-politization of the media environment, hindering much-needed reform.

This policy brief argues that effective reform of the media sector remains an elusive endeavor, largely due to the deeply-rooted political factor. The brief will analyze media reform across Moldova's three most recent governments,¹ examining each successive approach to regulating the sector. It concludes with an overview of the implications of future political events for the media environment and recommendations for improving the sector at legislative and operational levels.

Understanding the nature of media issues in Moldova

The functional issues affecting Moldovan media are commonly perceived as sectorial and horizontal – that is, as separate issues that interact but do not overlap or spring from each other. Reflecting this, the annual Moldovan Press Status Index Report evaluates the media sector according to broad categories including the legal framework, political context, economic environment, professional environment, and

security conditions for journalists and media.² By contrast, this policy brief considers issues in the Moldovan media as more layered and hierarchical, thus requiring an analytical approach in which some issues take preeminence over others in a given context.

Political interference, which undermines the freedom and independence of the media sector, is a preeminent and overarching issue when considering reform (in other words, a *top-level* issue). Such interference is widespread in Moldovan politics and has the heaviest and most perceptible impact

on the media's operating environment.³ This interference commonly takes the form of monopolization of the media market by various political figures, who use their influence over the sector to promote politically-biased media narratives and pressure independent media institutions and journalists. Involvement in media by political parties, politicians, state officials, and their allies, is a primary indicator of the overall level of political interest in (and by extension, the practical extent of) achieving meaningful reform in the sector.

Less evident are the "technical" (or *base-level*) issues in the Moldovan media – these include the legal, organizational, and institutional features underlying the political factor. In recent years, such issues have included deficient regulatory frameworks or unenforced legislation (such as those relating to audiovisual regulations, access to information and freedom of speech, and the National Concept on Media Development); underperforming regulatory bodies, including the Audiovisual Council (CA) and the Competition Council; and the sustainability of media institutions.⁴

Ultimately, both top- and base-level issues are critical in determining the media sector's ability to fulfill its important role of the Fourth Estate; that is, to provide Moldovan citizens with high-quality and objective information that holds leaders accountable and supports democratic processes.

The novelty of media reforms under the Democratic Party (2016–2019)

Prior to 2017, Moldovan media operated in an uncertain legal environment, with audiovisual legislation that was outdated, frequently amended, and ineffective overall. Among the major shortcomings was an inadequate law on access to public information, a selective and biased CA, ineffective parliamentary control that condoned superficial compliance with legislation, and discriminatory practices in the sector.⁵

In the ascension of the Democratic Party (PDM) to the political arena in 2015–16 (a formally pro-European party), these legal shortcomings contributed to poor enforcement of protections for journalists and restricted their right to access information of public interest and cover public events and official proceedings, among other issues.⁶ Most concerning, however, was the dominant and influential position of the Party within the media market. Vladimir Plahotniuc, PDM's leader and an oligarch with extensive political influence, at the time owned four out of five national TV stations (Publika TV, Prime TV, Canal 2, and Canal 3) and several radio stations.⁷ President Igor Dodon and his Party of Socialists of the Republic of Moldova (PSRM) were themselves affiliated with three television stations (Accent TV, NTV Moldova, and Exclusiv TV), while political newcomer Ilan Shor, a businessman and leader of the Shor Party, was the *de facto* beneficiary of Alt TV and Euro TV, now Televiziunea Centrala (TVC).⁸

This situation propelled the Council of Europe (CoE) and the European Union (EU) to launch the 2017–18 joint project

"Promoting Media Freedom and Pluralism in the Republic of Moldova."⁹ Parliament was an important actor in the reform process; Parliamentary Speaker and PDM member Andrian Candu set up a comprehensive working group that ultimately culminated in the Parliament's adoption of six legislative acts.¹⁰ Among these, the most significant were the National Concept on Media Development for 2018–25, as well as the new Audiovisual Media Services Code, which entered into force in January 2019, replacing an outdated version from 2006.¹¹ The Audiovisual Code was a much-needed framework for implementing the EU's Audiovisual Media Services Directive and ensuring transparency in media ownership, freedom of expression, and content development.¹² The groundbreaking National Concept was intended to foster independent editorial policies and accountability of media institutions, and to address various legislative, operational, and financial issues in the sector under the coordination of a designated Council.¹³

Unfortunately, these reform efforts ultimately achieved little meaningful change in the media sector. Although the Audiovisual Code contained some provisions to limit the size of media holdings, the issue of monopolization of the sector by political influences was still legally unresolved. None of seven planned legislative amendments were adopted by the Parliament, including for the Laws on Access to Information and Freedom of Expression.¹⁴ The working group ceased its activity after the project finalized in 2018, despite the fact that its goals were not achieved.¹⁵ There were also worrying signs that a cartel agreement was emerging between PDM and PSRM in the advertising market.¹⁶

In the overall reform effort, PDM had "addressed" the media sector's technical shortcomings rather than the primary or topmost issue – the political interference of the Party itself. Despite the novelty of the "attempted" reforms, the situation had, in fact, drastically worsened. The Association of Independent Press's "Report on the Freedom of the Press in Moldova" (May 2018–May 2019) pointed out that intimidation and discrimination against journalists and media outlets by politicians and civil servants had intensified; the legal and administrative responses by public and media institutions to such infringements had been improper or biased; and the parliamentary elections had demonstrated information was being manipulated in favor of PDM, PSRM, and the Shor Party.¹⁷

Hope of a new beginning for Moldovan media under the Sandu Government (June–November 2019)

The 2019 parliamentary elections concluded in June with the formation of a new majority in the Parliament: the electoral bloc ACUM (a pro-European coalition made up of the Action and Solidarity and Dignity and Truth Parties) and PSRM.¹⁸ Moldova's Western allies and local civil society welcomed this unexpected political transition as a chance for the country to relaunch democratic reforms.¹⁹ The new government

leadership promised to implement a series of anti-oligarchic reforms that would end undue private and political influence over the country's institutions, including in the media sector.

With the formation of the new majority, the Parliament adopted a formal "Declaration on the Recognition of the Captive Character of Moldova," which acknowledged the usurpation of power in the country by the oligarchic regime of Plahotniuc and PDM.²⁰ Moreover, PDM's monopoly on the media sector began to disintegrate after Plahotniuc disassociated himself from the Democratic Party and PDM entered the opposition.²¹ While major media outlets continued to be politically biased, the issue of media monopolization began to subside once PDM was no longer in a position to pressure the sector.²²

At this point, the underlying legal, organizational, and institutional issues within the media (base-level issues) became increasingly apparent. During Maia Sandu's mandate as Prime Minister, key areas of concern included the functioning of media regulatory bodies such as the CA, inefficiency of the Competition Council, sustainability of media outlets, and revitalization of the parliamentary working group on media.²³ Sandu was profusely committed to depoliticizing state institutions and supportive of a robust, independent media, one that would actually hold state officials accountable.²⁴

Reform of the CA — the regulatory body responsible for monitoring and ensuring freedom of expression, pluralism of opinions, and free competition — was considered particularly important.²⁵ The Parliament's Declaration on the captured character of Moldova found that the CA was not performing its duties objectively, but instead allowing PDM's dominant position in the sector to continue.²⁶ The Parliamentary Commission also acknowledged the political bias of the CA when it dismissed the body's 2018 activity report.²⁷ In accordance with the Parliament's Declaration, PM Sandu called for Council members to step down.²⁸

Reform of the CA and the sector's other technical shortcomings was cut short when evidence began to emerge of creeping re-politicization of the media landscape. At the 2019 Media Forum in Moldova, Sandu voiced concerns over the emergence of a new media holding to replace that of Plahotniuc and PDM.²⁹ The CA took no action to halt the concentration of media ownership in the interest of President Dodon and PSRM, allowing them to become the indirect owners of four important television broadcasters (Accent TV, NTV Moldova, Exclusiv TV, and the new "Primul in Moldova").³⁰ Notwithstanding calls from media NGOs for the CA to halt this process and ACUM's demand that the Council restructure and replace its members, the institution was politically shielded by PSRM representatives, who claimed that such actions would undermine the CA's independence.³¹

Despite having the political will to push forward with meaningful reforms, the Sandu government realized few

actual achievements in the media sector. Among those small accomplishments was a long-awaited draft law on providing free and unrestricted access of the press to state registers and small economic concessions for media institutions.³² There were no substantive improvements made, however, in the functioning of the CA or the Competition Council, implementation of the National Concept on Media Development, or resuming the work of the parliamentary working group on media. Although media regulation was among Sandu's priorities, much of the Cabinet's efforts during the government's five months in power were put into justice sector reform.³³ It did not help that, along with unresolved technical problems in the media, the issue of political interference under Dodon and PSRM had resurged by the end of the government's mandate.

Signs of backtracking under the Chicu Government (November 2019–January 2020)

A so-called technocratic government led by Ion Chicu, former Finance Minister in the PDM government and adviser to President Dodon, replaced the Sandu government after only five months of activity. The no-confidence vote that led to the political transfer was supported by Members of Parliament from both PSRM and PDM, who may have feared the consequences of Sandu's efforts to de-politicize state agencies and reinforce rule of law.³⁴ PM Chicu pledged to both continue the reform and redress mistakes made by the previous government.³⁵ However, the presence of a PSRM and PDM tandem in the cabinet (comprised of the President's former advisers and members of the old PDM government) cast doubt on whether the country would actually undergo a credible reform process.³⁶

Backtracking on media reform was apparent soon after the new Cabinet took control. The Chicu government's Activity Program initially disregarded the media sector altogether.³⁷ Yet, under pressure from media NGOs, the government finally included superficial provisions for media reform in its 2020–23 Action Plan.³⁸

At present, the two greatest risks to Moldovan media are the sector's unresolved technical issues and the issue of ongoing political interference, stemming both from those in power and from the individuals and institutions still affiliated with previous governments. In December 2019, the Parliamentary Committee on Legal Affairs, Appointments, and Immunities rejected the draft law on free access to state registers for the press, prepared under the Sandu government.³⁹ Meanwhile, parts of the initial reform efforts of the parliamentary working group in 2017–18 — including draft amendments to several laws pertaining to access to information, freedom of expression, and press law — have yet to be discussed or added to the plenary session agenda, while the National Concept on Media Development continues to be overlooked.⁴⁰ After months of investigations, the Competition Council also issued a controversial decision — hotly contested by independent media and civil society in the country — that no cartel agreement exists between PDM and

PSRM-affiliated media companies.⁴¹ At the operational level, media outlets affiliated with Dodon/PSRM are assuming greater dominance in the media sector, even as Plahotniuc affiliates become less prominent.⁴² Taken together, these instances clearly demonstrate the re-involvement of politics in media and regression in the reform process.

Conclusions: the future of the media sector

Another poignant example of political messaging in media was seen on December 23, 2019, when the national television channel Moldova 1 broadcast a video during primetime highlighting the accomplishments of President Dodon.⁴³ While political interference in the media under PRSM may not manifest itself in entirely the same way as under PDM, it nevertheless portends a high risk that reform will be delayed. Since Dodon will likely seek reelection in 2020, the political factor will continue to be decisive in determining the extent of media independence and meaningful progress toward reform.

Under the political leadership of three successive governments, media sector reform in Moldova has been defined by:

- 1) political interference that undermined reform at the sector's base/technical level,
- 2) re-prioritization of technical issues as political influence diminished, and
- 3) re-emergence of political interference under the current, PSRM-dominated government.

Moreover, reform has never been truly supported by both the political class and media institutions (including both regulatory bodies and politically-biased outlets) at the same time. Reforms initiated during the rule of the Democratic Party had the potential to improve the sector's resilience, but PDM demonstrated no inclination to confront the most fundamental issue — relinquishing its own hold over media. The Sandu government, alone showing a legitimate interest and openness towards a functioning independent media, unfortunately was overwhelmed by remnants of the previous dysfunctional system, technical issues in the sector, and the return of politics in the media — and thus did not have the capacity to foster substantial changes.

The current political leadership seems to have little interest or investment in addressing issues in the media sector, indicating that hope for future reforms is small. Without guidance or political will at the executive level from the Government, other stakeholders among Parliament, the Presidency, media regulatory institutions, and the media community are "left to manage" the sector, which has already shown clear evidence of re-politicization. Given current dynamics that put reform in doubt — and the poor or, at times, detrimental institutional and political responses by the state — it is possible that regional and international organizations will need to become more involved in order to achieve true and lasting reform.

Recommendations

Under a Governmental initiative, **creation of a single permanent body invested by the Parliament with rights to propose, amend, and withdraw draft laws and act on legislative initiatives prior to plenary session voting.**

This body should include members of the Government, Parliament, and representatives of media NGOs and regulatory bodies, and should be consulted regularly by regional and international media institutions. This body would replace all ad hoc media working groups and committees, ensure sustainability and continuity of adopted reforms, and consolidate proposals from various actors in the media sector. Given the fragmentation of the media market, it would also serve as a consolidating voice and comprehensive stakeholder in the reform process. It is advisable that it collaborate with the parliamentary commission for media, through an agreed framework.

In the framework of the parliamentary committee on media and with input from media NGOs, **revision of the National Concept on Media Development and elaboration of short- and long-term action plans for implementation.**

The short-term action plan should consider the role that media outlets and regulatory bodies play during elections and set up mechanisms that prevent excessive political interference. Regional and international organizations, such as Freedom House, OSCE, and Council of Europe, should have a key role in advocating for and monitoring the process, thereby "pressuring" the authorities to comply with international standards on media freedom.

Redirection of aid and support for content development

(TV shows, documentaries, podcasts, etc.) from international and national aid agencies. Ideally, these funds will work in tandem with revised legislation to ensure the media sector's independence. In the short term, the aid will decrease media outlets' reliance on foreign content and provide a source of revenue. In the long term, it can contribute to media outlets' financial independence and sustainability, and deter political involvement ("support") in the media industry.

Prioritization of capacity-building for local media. The Government, media NGOs, and international agencies can contribute to this aim through a variety of means, including grants, professional development programs, and training journalists on digital and other types of new media. With adequate support, these media outlets could become the primary source of information at the local level, providing a wider array of narratives and news to local populations. On a national level, the outlets could be equipped to challenge the influence of the largest media groups and TV stations with national coverage, which are often controlled by political actors.

Endnotes

- 1 For the purposes of this text, government is defined as the corresponding political leadership across executive and legislative bodies. The term Government (capitalized) will be used when referring specifically to the executive bodies of the PM and Cabinet.
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- 16 "Patru posturi tv denunță la Consiliul Concurenței o presupusă înțelegere de cartel între două case de vânzări de publicitate" (Four TV channels denounce an alleged cartel agreement between two advertising sales houses to the Competition Council), Media-Azi.md, January 24, 2018, <http://media-azi.md/ro/stiri/patru-posturi-tv-denunta-la-consiliul-concurenței-o-presupusă-întelegere-de-cartel-între-două>.
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