



**Organization for Security and Co-operation in Europe**  
**The Representative on Freedom of the Media**  
**Miklós Haraszti**

**16 December 2004**

**Assessment Visit to Moldova**  
**Observations and Recommendations**

The OSCE Representative on Freedom of the Media Miklos Haraszti, accompanied by Adviser Alexander Ivanko, and Research Officer Ilia Dohel, visited Chisinau, Moldova, from 18 to 21 October 2004. This was the Representative's second assessment visit since taking over his post. The trip was made at the invitation of the Government of Moldova and was organised by the Ministry for Foreign Affairs and by the OSCE Mission to Moldova. The purpose of the trip was to assess the current state of media freedom in the country and to provide the authorities with recommendations. The Representative appreciates the co-operative approach of Moldova, and he has prepared this Report in the same spirit. The Report was prepared with the assistance of the OSCE Mission to Moldova.

Miklos Haraszti met with government officials, parliamentarians, journalists, and representatives of non-governmental organisations. Among those he had talks with were, in order of the meetings:

- Foreign Minister Andrei Stratan;
- Minister for Reintegration Vasile Sova;
- Former Prime Minister and Parliament faction leader Dumitru Braghis;
- Leader of the faction of the Christian Democratic Peoples Party Iurie Rosca;
- Chairman of the Audio-visual Co-ordination Council Ion Mihailo;
- Speaker of Parliament Eugenia Ostapciuc;
- Head of the Parliament Commission on Culture and Media Vladimir Dragomir;
- Leader of the Communist Party faction Victor Stepaniuc;
- Meetings with Parliamentarians;
- Meetings with journalists, editors and managers from different media outlets, including former and active journalists, the Board Chairman, and the CEOs of the TV and radio branches at Tele-radio Moldova (TRM);
- Meetings with several NGOs, including the Committee for the Defence of Human and Professional Dignity (CADUP), and the Independent Journalism Centre, Union of Journalists;
- Meetings with journalists from Transdnistria.

### ***Positive developments – pluralism and decriminalised libel***

***There are a number of estimable developments in the situation of the Moldovan media.***

Overall, media pluralism is highly developed in Moldova, both in terms of quantity of media outlets and of different views that are represented (albeit diversity on both counts is more present in the print press than in the broadcast media). Politicians of all ranks are regularly criticised in the media; independent TV and radio stations are very outspoken in their comments on the authorities. There is also an open debate regarding the development of the media itself; this debate was described by the Foreign Minister as “transparent.” Newspapers that support the Transnistrian separatist authorities are freely distributed in Moldova.

Moldova, like few other OSCE participating States, has decriminalised libel. The Office of the Representative has been advocating libel decriminalisation in the OSCE region for almost four years.

Moldova was also one of the first countries in the region to transform its state broadcaster into a public service one.

Nevertheless, most interlocutors agreed that there were several outstanding media problems that needed to be dealt with in the foreseeable future. Some of the shortcomings, as parliamentarian opposition leader Braghis put it “were the result of a growing democracy.” In his view the OSCE needed to get more involved in media matters. The Foreign Minister also stated that “Moldova has some shortcomings in the media field, but these are not intentional. Other European states also have shortcomings. We do not want to take a wrong way and that is why we are grateful for any recommendations coming from the OSCE, and other international organisations.”

The purpose of this report is to offer such recommendations based on observations made during the visit.

### ***The General State of Broadcasting***

***There can be no true pluralism when there are no competing domestic nationwide channels. In this situation, a transparent tender is needed for another nationwide frequency.***

Currently, there are only three nation-wide broadcasters in Moldova, and only one of them – the public company *Teleradio Moldova (TRM)* – is a Moldovan channel in terms of content. The other two channels re-broadcast programming from neighbouring countries: Romania and the Russian Federation.

It seems to be clear that a fourth nationwide frequency exists; however the issuing of this frequency was stopped by the licensing authority in 2002. The tender for the third nationwide channel – the one re-broadcasting a Russian network – was announced on 15 October 2004; however, a tender for the forth has not been re-announced. For additional information on problems of transparency in licensing, see the chapter on the Audio-Visual Council.

### ***The Situation around TRM***

#### **Too much Government, too few other voices**

***TRM, although legally transformed from state broadcaster into an autonomous public service institution, in reality continues to tilt towards the Government. Most of the political programming is reported to be news on and by the ruling party. In this situation, when TRM is the only domestic nationwide broadcaster, balanced coverage of political events is even more important. TRM still has to live up to its commitments as a public service broadcaster.***

No content monitoring is conducted by TRM itself despite the fact that it is prescribed by the new Law on the National Public Broadcasting Company Teleradio Moldova. The explanation given by TRM management was a lack of resources to produce the needed tapes. But in fact it was the Supervisory Board (SB) which at least should have tried to enforce such monitoring. The SB, explaining their lack of concern for monitoring, said that in the initial period when TRM has only started its public way of functioning, it would have been misleading to produce any monitoring.

As a result, only the NGO community did such monitoring. Their findings were heavily disputed by the TRM management, the SB, and ruling party officials. It is true that the NGO monitoring was done on a quantitative basis. The 'stopwatch' method is unquestionably crude, and cannot reveal the nuances of programming. Still, this method is good enough, and the results were overwhelming enough to show that the news coverage at TRM since the transformation was disproportionately about the Government and by the Government.

#### **Labour Dispute**

***Both TRM management and CADUP that represents journalists who were not hired as part of the transformation process from state to public broadcaster should agree on a compromise through negotiations.***

The OSCE Representative and his staff had several meetings with TRM management and with representatives of former TRM journalists who were not re-hired after TRM was officially transformed from a state to a public broadcaster. Alexander Ivanko observed the work of the Conciliation Committee of Teleradio Moldova that was established to deal with this labour dispute.

## **Background**

*In February 2002 strikes and protests against alleged censorship at TRM supported by more than 300 TRM employees started a debate in Moldova on the need to transform TRM into a public broadcaster. The required legal framework was established under Council of Europe guidance.*

*The Law on the National Public Broadcasting Company Teleradio Moldova was adopted by parliament on 26 July 2002. The Law was revised on 13 March 2003 after it was criticised by the Council of Europe. On 13 November 2003 the law was changed again; this time with the aim of liquidating the previous state broadcaster. This meant that the newly established public company would not be under any obligation to hire all of the staff from the state broadcaster. According to several sources, there was fear among TRM staff that the selection process would make redundant those employees who had been most active during the February 2002 protests and who had campaigned for the transformation of TRM into an independent public broadcaster.*

*A selection commission formed by three members proposed by the Administrative Board, three members proposed by the Supervisory Board and one member elected by the staff of TRM was established on 30 April 2004. The commission selected new staff by 7 August 2004.*

*907 persons were offered contracts, 890 signed them. 140 positions are still vacant. The selection commission therefore has not concluded its work. Approximately 190 staff members have been laid off.*

*After the selection results for the news departments had been announced on 27 July, discontent among TRM employees about the way the process was conducted turned into public protests. On 27 July a group of TRM employees founded the Committee for Protection of Human and Professional Dignity and occupied the room in which the selection commission held its meetings. In response, TRM management suspended the contracts of 19 employees and on 30 July the police removed the protestors from the building.*

*These demonstrations, at one point involved thousands of people, started in protest against the results of the selection process. The main demand was therefore to re-run the process. This demand was later modified to 'returning to the situation before the selection procedure started.' The modified demand could be theoretically satisfied without a re-run by offering contracts to all the 190 laid off staff.*

All interlocutors agreed that the situation around TRM was the most pressing media issue in the country. All seemed to agree that the only way to proceed was through a

negotiating process. As Foreign Minister Stratan put it: “We want the transformation of TRM to be done in a democratic way.” Nevertheless, several questions should be raised.

- The whole selection process seems to be marred by lack of understanding of the demands of such a process. Although it is clear that some of the staff would probably have to be made redundant, the selection criteria were not clearly defined, and the selection itself was not transparent. Charges of political bias can not be refuted given the lack of transparency in the selection process.
- The attitude of the TRM management, at least initially, was not constructive and led to massive protests and to a stalemate that is still not resolved.
- On the other hand, CADUP, formed originally to defend the rights of the laid-off staff, started adding political demands to their original labour ones.

In this situation, the OSCE Representative, together with the Head of the OSCE Mission in Moldova and the Special representative of the Secretary General of the Council of Europe suggested to the above-mentioned Conciliation Committee that a new selection commission should be created according to the following formula:

- Two members of the selection commission to be appointed by the administration of Teleradio Moldova;
- Two members of the commission to be appointed by CADUP;
- Three members of the commission to be appointed by consensus by the Conciliation Commission. Alternatively, one of these three members could be a foreign expert, seconded by the OSCE or the Council of Europe.

At time of writing, this issue is still pending. The Conciliation Commission at TRM held only two meetings in November. On both sessions the commission discussed the joint proposal on a new selection commission, put forward on 21 October by the Office of the Representative, the OSCE Mission and the Council of Europe. The Commission failed to come to a decision concerning this joint proposal. Referring to a lack of progress in the work of the Commission and having accused TRM management of “simulating a dialogue” the representatives of the protesting journalists withdrew from the Conciliation Commission on 25 November.

### **TRM Supervisory Board**

***The current TRM Supervisory Board (SB), although in theory its majority is formed by civil society, does not represent the whole spectrum of views prevalent in society, and in fact allows for political one-sidedness. The current law should be changed to allow for a different composition of the SB.***

Several opposition parliamentarians, journalists and NGOs complained about the current set-up of the SB which includes two representatives from Parliament (one from the

opposition), two - from Government, two appointed by the President, and nine from different organisations. However, the President, the Government and Parliament are controlled by one party, and so are the majority of civil organisations represented on the board.

The leader of the Communist Party faction Victor Stepaniuc acknowledged that not all civil society was represented on the board, but only “the main civic organisations” which leaves open the question of who and, more importantly, how defines an organisation as being “main.” In the highly politicised climate in Moldova a highly politicised SB is seen as undermining the credibility of the public broadcaster. One of the proposals coming from opposition leader Braghis would provide for a 12 member SB, six people from the ruling party, six from the opposition, and the board working strictly on a consensus basis. Although this idea may sound appealing it might also lead to a stalemate where the board would not be able to agree on anything leaving TRM management without any supervisory control.

The OSCE and the Council of Europe should be encouraged to come up with a proposal on the structure of the SB that would have the approval of all political sides in Moldova. Several proposals, especially the one prepared by the Association of Electronic Media (APEL), should be carefully analysed.

### ***The Audio-visual Co-ordination Council***

***Tenders for frequency allocations are offered at very short notice, and do not provide enough time for potential applicants to prepare all the necessary documents. The composition of the Council does not guarantee its objectivity. Also, there is a lack of transparency in the decision-making process regarding the allocation of frequencies.***

Complaints about political bias in frequency allocation could not be substantiated. But when looking into these complaints, the Representative established that the process allows for subjectivity when evaluating and voting on tenders for frequency allocation.

Broadcasting licenses are allocated by the Council. In a system that can only be described as ‘two-headed’, the actual frequencies to be used by the licensee are provided to the Council by the Ministry of Communications. As one senior official said: “We do not know when these frequencies become available.”

The Council, which consists of nine people, is appointed respectively by the Government, the President, and the Parliament. In a situation like today's, when the majority in all the executive and legislative branches are controlled by one party, this system leads to total political control of the Council. Several interlocutors complained that they did not have any trust in the Council's objectivity when issuing licenses for channels.

It should also be noted that the tender for the very important fourth nationwide channel was not re-issued after years when there was absolutely no movement on this matter. On the other hand, the tender for the third nationwide network, the license of which was

running out, had been issued on 45 days notice, and was only announced in three newspapers in a small print advertisement.

To ensure the independence of the Council, the election procedure should not be politically oriented, and should focus on employing as members of the Council individuals who are reputable experts in the broadcasting field.

The method of frequency allocation has to be changed. Only one agency should be in charge of both establishing and allocating the frequencies. This would correct the current 'two-headed' system when the Council is at the mercy of the Ministry, not knowing when (and why) a frequency might be offered for tender.

### ***National Register for Periodicals***

***Parliamentarians should be urged to refuse to pass a law that provides for the re-registration of newspapers.***

Leader of the Communist Party faction Victor Stepaniuc informed the OSCE Representative that Parliament plans to pass a law that would require all print media to re-register. He explained that the reason for this new procedure would be "to distinguish pure commercial ventures from publishing ones."

Several journalists and editors have voiced their concerns that such a procedure might lead to the 'weeding out' of opposition newspapers.

The Representative questioned the mere reason for such a procedure and underlined that it was not the job of any state agency to "distinguish" between different media outlets. He called on Parliamentary Speaker Eugenia Ostapciuc, the leaders of the Communist majority faction, and the Commission for Mass Media not to go ahead with plans to force periodicals to re-register as non-profit organizations.

The distinction between commercial and journalistic activities is difficult and such a move might negatively effect the economic base of a newspaper. Such a move might be perceived as politically motivated, especially in a pre-election period.

### ***The Print Press in Moldova***

***The Representative can not recommend a forced privatization of all government-owned newspapers although the concept of a tax-payer supported print media is incompatible with advanced democracy. However, as a minimum requirement, the number of these newspapers should not grow, and there should be no administrative or advertising discrimination against the non-governmental print press. There is no need to re-establish the so-called 'rayonnie gazeti', that is, the district newspapers paid for by local government.***

Most politicians in Moldova agree that there was no censorship in the print media. But they also agree that there are no truly independent newspapers or magazines. As opposition leader Braghis put it “The print press is free, however since they depend on money, and the advertising market is too small in Moldova, there are no independent newspapers in the country...All are influenced by political figures.”

Government newspapers also exist in Moldova, financed through the budget and thus putting at a competitive disadvantage the print press that is privately owned. Several journalists complained that advertising agencies were “encouraged” to direct ads to the government media. Also, government media benefited from not paying rent and from a monopoly on distribution by *Posta Moldova*. At the local level, authorities started re-establishing the old pre-democracy practice of the so-called *rayonnie gazetii* (local newspapers) that are funded from the local budget.

The fact of a government owning a newspaper is a questionable one. It is neither compatible with accountable democracy, nor with independent journalism, nor with market reform. This practice should be in the long-term abolished.

### ***Civil Libel Cases***

***Civil defamation penalties remain high and are often misused by public officials. A reasonable ceiling could be introduced for such penalties. Courts should expose public figures to a higher degree of criticism, as endorsed by relevant rulings of the European Court of Human Rights (ECtHR).***

Although Moldova decriminalized libel, civil defamation suits remain a problem for privately owned newspapers. The amount of damage that a plaintiff can claim for defamation is not limited in Moldova. Excessive sums for moral damages can not be paid by most newspapers that are not financed from the state budget.

Each year Moldovan courts adjudicate approximately 600 civil defamation cases. A considerable number of these cases are filed by public officials. A newspaper was recently sentenced to a 150,000 Euro fine that has not been paid yet.

A reasonable ceiling should be introduced for such penalties. When reviewing civil defamation cases filed by public officials, courts, as endorsed by the ECtHR, must observe the principle of offering less protection to the latter than to private individuals.

### ***Media in Transdnistria***

***The Transdnistrian media are under severe pressure and international organisations should define ways on how to try to help independent journalists in the region.***

The Representative, as part of his trip to Moldova, also planned to visit Transdnistria where he had arranged to have several meetings with journalists from the region. On his behalf, the OSCE Mission in Moldova approached the so-called ‘Transdnistrian



Ministry of Foreign Affairs' requesting also meetings with the authorities. A day before the planned visit, the Mission received a letter from 'Deputy Minister' V. Yankovsky informing that according to information received from "the Ministry of State Security, the OSCE Representative on Freedom of the Media Miklos Haraszti plans to visit Transdnistria on 21 October." The letter holds that because "the meetings would exclude objectivity and a healthy debate we do not consider the above-mentioned visit advisable."

Nevertheless, a meeting was organised with independent Transdnistrian journalists in Chisinau. They described an atmosphere of repression that prevailed in the local media. The majority of the media was published by the authorities. According to a leading local independent editor Grigoriy Valovoi, only 10-15 percent of all publications could be considered non-governmental. There was almost no debate on any issues of public interest.

The only existing independent newspapers are frequently harassed, their print-runs arrested, they are sued for libel, their staff often threatened. A complete government monopoly exists in the electronic media. According to Transdnistrian journalists, all contacts with Moldovan reporters are strictly forbidden.

Recently, broadcasts of the Moldova 1 channel has been suspended in Transdnistria. Journalists from both Moldova proper and Transdnistria suggested that an exchange of programmes, information, etc., would be beneficial but warned that these exchanges would probably be curtailed by the Transdnistrian authorities.

### **Background**

*The official news agency Olvia Press and official newspapers such as Pridnestrov'e serve only as propaganda tools of the ruling authorities. Official Transdnistrian television and radio stations are also under tight control by the so-called 'Ministry of Information.' The private TV Company TCB (TSV), which belongs to a private entity Sheriff, is also close to the region's leadership.*

*Several journalists who were critical towards the authorities decided to leave the region in the beginning and the middle of the 1990's. In 2004 the only media outlets which have managed to establish a certain independence are Profsouyzyne Vesti, Novaja Gazeta, Dobriy Den' from Ribnita and Celovek i ego prava from Tiraspol. The owners of Novaja Gazeta plan to establish an independent radio station.*

*Novaja Gazeta, which was founded in 1998 and which is the most prominent independent paper in the region, has faced pressure from the Transdnistrian authorities from the outset. In January 1999 the entire print-run of Novaja Gazeta was confiscated by Transdnistrian security services and the paper was forced to close down. The paper won a court case and re-started in August 1999, but the print run was confiscated again. The newspaper then started publishing under a new name and with a smaller print run, but remained under pressure. In March*

*2000 the print run of this new Samaja Novaja Gazeta was confiscated. The paper was eventually able to operate under its original name later that year, but continued to face pressure.*

*On 20 April 2004 the editors of Novaja Gazeta were questioned by an investigator from the Transdnistrian Security Service. The subject of the interrogation was an article on freedom of consciousness published in the 11 February 2004 edition of Novaja Gazeta. The article was apparently critical to a leading official responsible for religion in the region.*

*The Ribnita based newspaper Dobriy Den' faced several libel cases in 2000, 2003 and 2004 that threatened its existence. All libel charges were made by local businessmen close to the authorities and the city council. However, no court decisions were enforced.*

*After the 'Supreme Court of Transdnistria' upheld earlier court decisions to liquidate the left wing opposition movement Power to the People – for Social Justice, the newspaper Glas Naroda lost its legal "owner" and was forced to cease publication. The leader of Power to the People Alexander Radcenko managed eventually to start a new paper, Celovek i ego prava. However, the print run of this newspaper is much smaller and Radcenko himself as well as Celovek i ego prava are under constant pressure by Transdnistrian authorities.*

*Journalists from outside Transdnistria can operate in the region only when registered with the so-called Ministry of Information in advance. In case they operate without registration they face the threat of arrest. In 2003 Dutch and US journalists had been detained by the Transdnistrian militia and on 6 September 2004 a cameraman from TV Moldova 1 was arrested and convicted to a 15 day prison term for filming the take-over of the Moldovan railway station in Benderi by Transdnistrian militia.*

### **Recommendations**

- Moldova should be encouraged, both regionally and among all OSCE participating States, to publicise the fact that it is one of the few countries in the world that has decriminalised libel.
- There can be no true pluralism when there are no competing domestic nation-wide channels. In this situation, a transparent tender is needed for another nation-wide frequency.
- TRM, although legally has been transformed from state broadcaster into an autonomous public service institution, in reality continues to tilt towards the Government. Most of the political programming is reported to be news on and by the ruling party. In this situation, when TRM is the only domestic nationwide

broadcaster, balanced coverage of political events is even more important. TRM still has to live up to its commitments as a public service broadcaster.

- Both TRM management and CADUP that represents journalists who were not hired as part of the transformation process from state to public broadcaster should agree on a compromise through negotiations.
- A new TRM selection commission should be created.
- The current TRM Supervisory Board (SB), although in theory its majority is formed by civil society, does not represent the whole spectrum of views prevalent in society, and in fact allows for political one-sidedness. The current law should be changed to allow for a different composition of the SB.
- Tenders for frequency allocations are offered at very short notice, and do not provide enough time for potential applicants to prepare all the necessary documents. The composition of the Council does not guarantee its objectivity. Also, there is a lack of transparency in the decision process regarding the allocation of frequencies.
- Parliamentarians should be urged to refuse to pass a law that provides for the re-registration of newspapers.
- The Representative can not recommend a forced privatization of all government-owned newspapers although the concept of a tax-payer supported print media is incompatible with advanced democracy. However, as a minimum requirement, the number of these newspapers should not grow, and there should be no administrative or advertising discrimination against the non-governmental print press. There is no need to re-establish the so-called 'rayonnie gazeti', that is, the district newspapers paid for by local government.
- Civil defamation penalties remain high and are often misused by public officials. A reasonable ceiling could be introduced for such penalties. Courts should expose public figures to a higher degree of criticism, as endorsed by relevant rulings of the European Court of Human Rights (ECtHR).
- The Transdnistrian media are under severe pressure and international organisations should find ways to try to help independent journalists in the region.