

# **Analysis of *The Statute of the National Public Audiovisual Institution – the Company “Teleradio – Moldova”***

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July 2007

## Background

This analysis deals with the Statute of the National Public Broadcaster of Moldova, the Teleradio – Moldova, drawn up in compliance with the Audiovisual Code of the Republic of Moldova. The basis for the analysis was an English translation provided by the OSCE in July 2007.

The expert has previously analysed the draft and final versions of the Moldovan Audiovisual Code and made various suggestions in this context. In some places comments in this report refer to earlier analysis and suggestions. This report consists of general remarks and an article-by-article commentary of the Statute. As the analysis is based on the English translation, no comments are made on language and terminology unless such remarks are substantially relevant or it is necessary to point out that the translation makes the substance unclear.

## General comments

The Statute meets with international and European standards in most respects. It forms a good basis for an independent public service broadcaster. What could be added is some more detail on the internal organisation of the Public Broadcaster and on delegation of powers from the Board to the Director and from the Director to other functionaries. The Audiovisual Code stipulates independence of the Public Broadcaster, illustrated e.g. by that the Broadcaster has an independent board, which is also reflected in the Statute. The need for such an independent board was an important issue in the comments made to the various drafts of the Audiovisual Code and such a board, the Supervisory Board, was adequately included in the final version of the Code. Generally the Statute in many places underlines the editorial and other independence of the Public Broadcaster, which is very good.

In the final version of the Audiovisual Code, the relationship between the Public Broadcaster and the broadcast regulator appeared to be in compliance with European standards. Although this relationship is not something the Statute directly touches upon, there is nothing in the Statute that would contradict the impression that the relationship will be correct. The Public Broadcaster will have a licence issued by the regulator and will to some extent fall under the competence of the regulator, even if some issues must be regulated differently for a public as opposed to a private broadcaster, as specified below.

One comment made in the analysis of the Audiovisual Code was that the status of the existing Public Broadcaster and the transformation into a new entity was not clear. The Statute does not touch upon this and it is possible that the matter is regulated in other instruments. There is a need to have clear rules on whether the new entity is a new or the same legal person as the previous one, on transfer of ownership of assets (like transmitters), on the status of staff and many similar questions. In some instances, it may be necessary to have special transitory provisions in or in relation to the Statute or at least a reference to separate instruments where the questions are regulated.

## Goals and tasks of the Public Broadcaster

Public service broadcasters in European democratic states with a free media have a special role, recognised in all European states even if the detail varies from country to country. Public service broadcasters are not state broadcasters in that they should cater to all interests of society regardless of the current political set-up of the country and maintain editorial independence from any political organs. They should differ from commercial broadcasters in that the main aim should not be to make a profit or get high ratings, but to provide programming that is in the public interest in the wide sense – including various minority groups. It is important to emphasise that the Broadcaster shall have different kinds of programming catering to all different groups in society, as is done in this Statute. Recent documents such as an October 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions and a Council of Europe Recommendation Rec(2006)3 endorsing the Convention underline the importance of cultural diversity. Another important task for a public service broadcaster is to provide children’s programming and educational programming.

The goals and tasks set out in the Statute meet with European standards. Some clarifications are suggested in the article-by-article comments, but generally it appears as if the drafters of the Statute have indeed used best European practice as a basis. Another positive aspect of the Statute is that there is a requirement for a proper complaints system.

As for provisions on programme content, the Statute again reflects best European practice with elements such as a ban on incitement to hatred and violence, on defamation and similar. Such programming standards should be based on the law and reflected in codes of content that should apply to all (public and private) broadcasters. It is important that the provisions in the Statute are in line with such other instruments. It may be useful to repeat the provisions as standards expressly for the Public Broadcaster as is done in this Statute. The Public Broadcaster can perform a variety of tasks related to its core function, but it is important that this does not dilute from this core function: high quality public service broadcasting. The Public Broadcaster should not produce advertising.

#### The Supervisory Board and personnel

It may be good with some additional rules (but not too strict or detailed) on practical working principles of the Supervisory Board, like how often the Board should meet (minimum number of meetings) and on principles for delegation of duties to the director and/or staff. As was pointed out in the analysis of the Statute of the regulator, detailed rules on matters such as office hours are better not set out in the Statute but in more flexible instruments, but at the same time some detail on working practices could suitably be in the Statute. Statutes should according to normal European standards (and EBU recommendations) lay down rules on internal organisation and define responsibilities of programming and other staff. Delegation should be set out in statutes to ensure legal certainty. The Board shall set up its own rules of procedure of which there could be a mention.

It is good that ethical principles are set out in the Statute. A separate Code of Ethics should be drawn up to give further detail and emphasis to such principles.

#### Funding and Advertising

Most European Public Broadcasters are funded partly by a subscription fee, as was commented upon in relation to the Audiovisual Code. This means of financing allows for a greater degree of financial and thus also other independence than direct state funding. As the suggestions were not adopted for the Code, the Statute does reflect and also must reflect the content of the Code.

It was suggested in the comments to the Audiovisual Code that advertising and teleshopping could be limited for the public broadcaster, in order to not create too much of a competitive advantage on the advertising market for the Public Broadcaster – that also has other funding - vis-à-vis the private ones. Such suggestions were not adopted in the Code and hence, as far as is known, the Public Broadcaster follows the same rules as private ones for how much advertising it has. Even so, the Public Broadcaster may because of the nature of its task and its programming show more restraint and adopt stricter principles for how it inserts adverts. There is nothing in this Statute on such rules, which could be elaborated separately.

#### Licensing

It is good that the Public Broadcaster has a licence as this gives the regulator some control over the Public Broadcaster, but it must be recalled that the relationship between the Public Broadcaster and the regulator must be different than that between the regulator and other broadcasters, as the Public Broadcaster is set up based on law. The licensing of such a broadcaster is mainly to ensure that certain basic criteria including technical criteria and programming standards are met and that interference is not caused, but the regulator is obliged to licence the Public Broadcaster and cannot take away its licence. This means that the regulator must employ other sanctions on the Public Broadcaster if it violates any provisions of the law and that the licence must look a bit different than an ordinary broadcasting licence. The main details in this respect will be in the licence and possibly in rules for the regulator – the matter is mentioned here only because some references in this Statute to licensing matters appear not to take this into account.

#### Summary of suggestions

- In many respects the Statute meets with the requirements of best European practice and suggestions more concern additions than amendments;
- The status of the existing Public Broadcaster and the transformation into a new entity must be clear, in the statute or a separate document that the statute could refer to;
- The extra tasks of the Public Broadcaster should not dilute its main task of providing high quality diverse broadcasting in the public interest. In this context, the duty to cater for the interests of minorities could be made even clearer;
- The duty to maintain a broadcasting archive should be expressly set out;
- A separate Code of Ethics should be drawn up;
- Some practical working principles and rules for the supervisory body should be drawn up like

- minimum number of meetings, principles for delegation and similar;
- The Statute should contain rules on internal organisation and define responsibilities of programming and other staff, which could be clearer than in the current Statute as could guarantees against dismissal;
- The Public Broadcaster should not produce advertising and should show some restraint on the amount and types of advertising it broadcasts, so as not to compromise its public service role;
- In any reference to the licence, it must be taken into account that the licence of the Public Broadcaster differs from that of private broadcasters as the Public Broadcaster is set up by law to perform a specific task and is ensured a licence for this purpose;
- The main task of monitoring and deciding on sanctions falls with the regulator so the role of the Supervisory Board is to implement such decisions and not itself to decide on sanctions. The rules on programming principles and similar or the Audiovisual Code also apply to the Public Broadcaster, which could in places be expressed clearly, e.g. through references to the Code.

#### Article-by-Article comments

### Statute of the National Public Audiovisual Institution - the Company “Teleradio-Moldova”

*The present statute is drawn up in compliance with the Audiovisual Code of the Republic of Moldova No.260 from 27.07.2006 (Monitorul Oficial No 131 from 18.08.2006, art. 679) that sets the way of organizing and functioning of the broadcasters (private or public) that operate on the territory of the Republic of Moldova, including the National Public Audiovisual Institution – the Company “Teleradio Moldova” (hereinafter referred as the company), its tasks, rights and obligations, as well as other aspects concerning the insurance of the company’s activity.*

#### *Chapter I. General Provisions*

- 1. The National Public Audiovisual Institution – the Company “Teleradio- Moldova” is set up and functions in compliance with the legislation of the Republic of Moldova, international acts to which our country is party, the present statute as well as other normative acts of internal utilization.*
- 2. The company has the status of a legal entity and it is an editorially independent public broadcasting service which is also independent in its production activity, institutionally autonomous, set up based on public financial capital, ensuring the citizens’ right to full, truthful and operative information based on the pluralism of opinions. The company broadcasts on the entire territory of the R. of Moldova as well as abroad.*

It is not clear how and to what extent the public broadcaster broadcasts abroad. Normally, a public broadcaster only broadcasts in the territory of the country apart from satellite broadcasts aimed at the Diaspora or similar. If that is what is meant here, it could be clearer. Otherwise this clear statement of the independence of the broadcaster is good and very important. It is also positive to underline pluralism early on in the Statute. As for the Broadcaster broadcasting on the entire territory, the importance is that the entire population has access to the broadcasts (i.e. population coverage instead of territorial coverage), but the effect may in this case be the same.

- 3. The company has a name in the state language, a stamp and a heading containing the state coat of arms, bank accounts, own balance, acronyms, symbols and other logo attributes as well as distinct audiovisual signals.*
- 4. The company cannot be privatized or transformed into a joint stock company. Its activity term is not limited.*
- 5. The company ceases its activity in case of liquidation, suspension, the broadcasting license withdrawal or when its functioning is impossible due to some natural disasters.*

It varies between countries if the public broadcaster has a licence or not. In some countries the public broadcaster does not fall under the competence of the regulator but has its own regulatory function, although it is getting more common to have a unified system of independent broadcast regulators with some competence over also public broadcasters. The benefit of this is that, as many issues concern both private and public broadcasters in a similar manner, the regulator can deal with all these issues and have a total overview of the broadcasting

sector. Thus it is positive (as was also pointed out in comments to the Audiovisual Code) that Moldova has chosen the system with an independent regulator dealing with public as well as private broadcasters. At the same time, there are some matters that are always different for the public broadcaster. As the public broadcaster is set up by law, it would be illogical if its licence could be taken away as this would negate the effect of the law. Thus, even if the regulator issues the licence and exercises certain control over the Public Broadcaster through its monitoring, the actions it can take vis-à-vis the Public Broadcaster will be different than those it can take regarding the private ones: one such difference being that the licence of the Public Broadcaster must be issued (even if the regulator can demand conditions to be met before issuing it) and it cannot be withdrawn as a sanction. This should be clear in the Audiovisual Code but even if it is not, the presumption must be that the Public Broadcaster has a special kind of licence. Consequently, it is difficult to see what kind of situations this article refers to. It also appears to be in contradiction with the previous point about the activity term not being limited. Basically the Public Broadcaster will only cease to exist if the law setting it up is changed and its legal basis withdrawn. Neither liquidation, nor suspension or licence withdrawal should happen. If its functioning is impossible due to natural disasters the stoppage would presumably be temporary.

**6. *The company uses the following official names and acronyms:***

*a) The National Public Audiovisual Institution – the Company “Teleradio-Moldova” – IPNA CTRM;*

*b) The Company “Teleradio-Moldova” - CTRM, TRM;*

*c) Television:*

*“Television of the Republic of Moldova”;*

*“National Television”;*

*“Moldova Cultural”;*

*“Moldovan Television”;*

*„TV Moldova-1”;*

*„Moldova – 2”;*

*“TV Moldova-2”;*

*“TV Moldova International”;*

*„Moldova International”*

*d) Radio broadcasting:*

*“Radio Broadcasting of the Republic of Moldova”;*

*“National Radio Broadcasting”*

*“Moldovan Radio Broadcasting”*

*“National Radio”*

*“Radio Moldova Cultural”*

*“Radio Moldova Musical”;*

*“Radio Moldova Youth”;*

*“Luceafarul Radio”;*

*“Radio Moldova International” – RMI;*

*7. The legal address of the Company: MD-2028, the Republic of Moldova, Chisinau, 1, Miorita Street.*

**Chapter II. *Company’s goals, tasks and objectives***

**8. *The company represents the interests of TV-viewers, radio listeners as well as its other program consumers, independently solving issues concerning broadcasting program services, the content and the form of its programs, their length, periodicity and cost, editorial policy and the mechanism of its implementation.***

**9. *The company has the following main goals and tasks:***

*a) to ensure the society’s free access to information, reflecting public interests in its radio or TV program services;*

*b) to provide the audience with equidistant information about political, economic, cultural, social and other events both from our country and from abroad.*

*c) to reflect equidistantly the activity of the central public authorities, of the local public administration of all levels, of the structures of the civil society, as well as the most relevant processes and phenomena that happen in society;*

*d) to opt for humanitarian and peaceful ideas, as well as for the democratic values promoted by the UNO, OSCE, Council of Europe and other international organizations to which the Republic of Moldova is*

*party;*

*e) to ensure the right of any person to freely express his or her political, religious, national, social beliefs, taking into consideration the society's general interests;*

*f) to ensure the keeping and promotion of national heritage values and historic traditions of the people from the Republic of Moldova;*

*g) to contribute to the spiritual and esthetic development of the society.*

This is in general a good enumeration of goals and tasks of a public broadcaster, reflecting its public service duties. What could be mentioned here in addition is the duty to cater for different groups, including minorities. This is mentioned below, but as it is an important task for a public service broadcaster, it would look good to have it clearly stipulated in this list. The requirement is not just for language (which is also important, reflected in the next point) but for minority culture to be represented. Children's programming is also normally seen as an important task for a public service broadcaster. Below (article 47) there is a mention of orientation towards children, but some mention also in this early enumeration of goals and tasks would be good.

**10. The company produces and broadcasts informative, social, political, educational, entertainment, health etc. programs in the state language, as well as in the languages of national minorities and other international languages.**

**11. In the process of its activity the company:**

*a) produces, develops and broadcasts Radio and TV programs, feature and documentary films, shows, concerts, music recordings on video and audio tapes, CDs, publications or any other kind of carrier. These can be produced in the Company's studios or in cooperation with other internal or external partners;*

*b) edits and broadcasts printed work concerning its own program or general broadcasting issues;*

*c) uses materials from its archive both for broadcasting and for other purposes;*

*d) exchanges, offers, accepts to broadcast, acquires or sell TV or Radio programs, other informative materials from our country and from abroad;*

*e) organizes, produces and presents, offers informational support, subsidies entertainment programs, concerts, shows (recorded, live or replayed broadcasting);*

*f) elaborates, produces, uses, rents or sells diverse equipment and apparatus to attain the set tasks;*

*g) carries out impresario activities for its own artistic groups, paying fees in compliance with the legislation in force;*

*h) organizes philanthropic activities for its employees and for its former employees, as well as other charity or socially useful actions for the purposes that do not contravene to the legislation;*

The main task for the Public Broadcaster must be to provide high quality public service broadcasting. Other tasks should be secondary and can be important supplements. The article (and other places of the Statute) refer to the archive without setting out clearly (it is done but not so clearly in article 13) the task that the public service broadcaster should indeed maintain such an archive, which is an important part of its duties. As for the other tasks, they are in line with normal such tasks provided they are interpreted correctly and the Public Broadcaster does not spend too much time and effort on other things than its central public service broadcasting task.

### **Chapter III. Company's Rights and Obligations**

**12. The company has the right:**

*a) to establish the organizational and internal editorial structures, personnel; to approve the Regulations of its subdivisions and other normative acts for the internal utilization;*

*b) to hold its own network of transmitters;*

*c) to benefit of the state networks of broadcasting and reception of Radio and TV programs, including broadcasting through satellite;*

*d) to perform the control over technical quality of the signal and rented installations;*

*e) to carry out, with its own or with rented means, the public broadcasting of Radio and TV programs,*

*sending teletext, coded information or other additional information through terrestrial way, cable, satellite and/or through the usage of other technical means, in compliance with the society's necessities;*

*f) to film, record and live broadcast, subjects about the activity of the central public administration, the local public administration of all levels, the structures of the civil society; about public, cultural, sport events, as well as other events of common interest;*

*g) to modify the daily program schedule depending on the importance of the events that are to take place;*

*h) to set up ways for the remuneration of its employees, fees and tariffs for its own production and for the services rendered in the field of Radio and TV broadcasting;*

*i) to found mixed or separate regional Radio and TV studios and other functionally autonomous units;*

*j) to hold its own network of correspondents (branches and representatives) in the Republic of Moldova in compliance with the legislation in force, and abroad in compliance with the legislation of the respective country, if the international agreements signed by the R. of Moldova do not stipulate other provisions;*

*k) to set up specialized structures and enterprises in different fields, including the protection of the copyright and related rights, as well as the protection of the intellectual property of the company and its personnel;*

*l) to negotiate and to sign agreement of collaboration with other audiovisual institutions from Republic of Moldova and abroad;*

*m) to practice other activities that do not contravene to the legislation in force.*

It is not quite clear what kind of fees and services can be rendered by the public service broadcaster (point h) but presumably this refers to matters elaborated in other parts of the Statute. As for point i), it is important to avoid diluting the resources of the Public Broadcaster. In a small country such as Moldova there should not be too many different units.

### **13. The Company has the obligation to:**

*a) to offer the audience Radio and TV programs of different form and content, that would comply to the widest interests of society;*

*b) to ensure the citizens' right to information, reflecting the socio-political, internal and international life in an objective and impartial way through freedom of expression of different ideas and beliefs, as well as free circulation of information;*

*c) to promote local values of the national culture, including those of the national minorities that dwell on the territory of the Republic of Moldova, as well as the values of universal culture;*

*d) to broadcast, in an operative way, information about natural disasters and catastrophes or about the endangering of the national security;*

*e) to keep, for the common benefit, video and audio records, documents of historic value, and to fill in the audio and video record library and archive with materials and works performed at a high artistic and esthetic level, ensuring a transparent and accessible record;*

*f) to use the state assets, sent for administration, in an appropriate way.*

## **Chapter IV. Company Management**

### **Section 1. Introductory Provisions**

#### **14. The company is managed by:**

**- Supervisory Board;**

**- President of the company;**

**- Radio Director and TV Director.**

This is a good and adequate management structure for the Public Broadcaster. More detail on the organisation, maybe in the form of organisational charts, would also be useful.

## **Section 2. Supervisory Board**

**15. The Supervisory Board is an autonomous management body, aimed at ensuring, through the Company's audiovisual means, the observance of the citizens and society's right to receive truthful, full and operative information, being entitled to monitor the observance of legal and statutory provision by the company.**

**The Supervisory Board operates in accordance with the legislation in force, with the present Statute and its own Regulation.**

The independent supervisory board is a very important institution for the public service broadcasting.

**16. The Supervision Board has the following functions:**

- a) approves the company's Statute and amendments to it;**
- b) approves the work plan of the company, which includes the financial plan and the editorial policy of the company;**
- c) assesses the performance of the company and its management, publishing annual reports and recommendations;**
- d) approves the establishment, reorganization and the termination of the company's subdivisions, including its territorial offices;**
- e) organizes public meetings with the representatives of different groups of audience from the Republic of Moldova with the purpose of performing audience research;**
- f) confirms, on a competitive basis, the President of the company, the Radio Director and television Director;**
- g) informs, ex officio and on request, about the infringement of the Audiovisual Code and other laws in force, committed by the Company, forwarding its President notifications of the need to adopt corrective measures.**

The issue mentioned in point g) is a matter on which the Public Broadcaster and its Board will work with the regulator that is the main supervisor of the Audiovisual Code. The Board can notify of infringements it notices but the regulator will (presumably) be the main body for this in which context the Board will have an important role in dealing with complaints and how to remedy potential breaches of the Audiovisual Code. If the Public Broadcaster falls under the competence of the regulator, which it appears to do according to the Audiovisual Code, the decision on corrective measures will be taken by the regulator and the regulator will decide what kind of action it requires from the Public Broadcaster. It is thus not the Supervisory Board who decided on corrective measures, although it can decide how to implement the decisions of the regulator.

## **Section 3. President of the Company**

**17. The President of the company is appointed for a 5-year term by the Supervisory Board. He can run for a new mandate when his term expires. The President executes his functions until his successor is appointed.**

It should be specified (which perhaps it is in original language) that the President can run for *one* additional mandate period.

**18. In the absence of the President of the Company, his functions are executed by the person empowered by the President.**

**19. The President of the company can be dismissed, before his term expires, by the Supervisory Board by at least six votes of its members:**

- a) In cases when the President of the Supervisory Board or an initiative group, formed by at least one-third of the members of the Board, forwards a notice in which they bring arguments to the fact that he does not execute his functions and duties in a proper way, infringing the provisions of the legislation in force;**
- b) On the recommendations of the bodies entitled with the right to control the financial activity of the company – for the infringement of financial activity, which brought considerable prejudices;**
- c) In case of resignation;**

**d) In case he lost his citizenship of the Republic of Moldova;**

It should not be too easy to dismiss the President as he/she should feel security in the position without fearing dismissal for example if sensitive issues are dealt with by the broadcaster. It is thus better to express more restrictively in what instances the President can be dismissed although a correct interpretation of the criteria mentioned here may achieve that. Loss of citizenship in a democratic state ruled by the rule of law should only happen on the person's own request, so this would only extremely rarely be a reason for dismissal.

**20. In such cases, until a new President of the company is appointed, his functions will be executed by the person appointed by the decision of the Supervisory Board.**

**21. The President of the company has the following functions:**

- a) to exercise the efficient and continuous management of the Company, ensuring the observance of national and international legal provisions of the normative acts with a internal character, as well as the decision of the company's Supervisory Board;**
- b) to represent the company in court, in relations with other institutions and organizations from the Republic of Moldova and abroad, concluding contracts and signing agreements on behalf of the company.**
- c) to approve, at the request of the radio and television Directors, orders regarding the good operation of the company's technical equipment, economic, commercial, and financial operations; and personnel recruitment, training, employment, and dismissal;**
- d) to develop jointly with the radio and television Directors, and with the heads of the company's departments, the Company Statute, work plan, training activities, re-organization of the subdivisions of the company and their termination, and propose to the Supervisory Board**
- e) to adopt decision of general competences;**

This sounds rather vague.

- f) to develop jointly with the company's subdivisions, the drafts of the statute, structure, the company's action plan, as well as drafts on the modification of these acts, forwarding them to the Supervisory Board for approval;**
- g) to develop drafts regarding personnel, salary grades, the procedures and criteria for the selection of company's personnel.**
- h) to set the base of the financial, budgetary and investment policy, its balance of revenue and loss, broadcasting, production, advertising, technical policy of the company;**
- i) to be the financial manager of the company, ensuring the efficient and according to the destination handling of budgetary and extra budgetary means, and creating proper working conditions for the company and its employees;**
- j) to sign financial documents, referring to company's activity, ensuring the transparency of its financial activity;**
- k) to issue orders, dispositions and other documents for internal utilization (including employment, appointment, shifting, dismissal etc) in terms of legal provisions;**
- l) to sign, on the behalf of the company, contracts, agreements and other documents, consulting the Supervisory Board, as the case may be;**

It should be clear when there is a need to consult the Supervisory Board, either in specified contexts or for agreements and similar concerning sums greater than a certain amount. These rules may be in a separate document rather than the Statute but they must exist. Otherwise there is a risk of too great bureaucracy if the board is consulted on very many issues.

- m) to initiate the company's participation in the foundation of production associations, as well as other associations for the company's interests and in order to attain its tasks;**
- n) to be responsible for the creation of the broadcasting schedule and its observance, for the preparation of programs and theirs compliance with the legislative norms, as well as for the quality of the broadcast programs;**

This kind of tasks will mainly be delegated to programming staff. Rules for this and

organisational principles need to be established.

- o) to put in practice the strategy and method of carrying out the company's objectives, the norms concerning programs structure;*
- p) to bear the responsibility for the strict execution of the Audiovisual Code of the R. of Moldova No.260 from 27.07.2006 (Monitorul Oficial No 131 from 18.08.2006, article 679)*

It would be better to just mention relevant laws without exact details or to mention this law and add "and other applicable legislation" or similar, as the Statute may to a large extent stay the same even if the law changes and in any case, also many other laws have to be applied – existing and future ones.

- q) to delegate, in some cases, his functions or other mandates to employees who hold a decision-making position within the company;*

This is where some more detail is needed in some form.

- r) to execute other functions that do not contravene the legislation in force.*

#### **Section 4. Television Director**

**22. The television executive Director is appointed to his position and is dismissed from it by the Supervisory Board. The television executive Director is dismissed from his position by the Supervisory Board by a vote of at least two-thirds of its members on request of the President of the company.**

Also for this position, job security is important so some restrictions or rules on dismissal should be included.

**23. The television executive Director has the following main functions:**

- a) to carry out the management of the activity of all the subdivisions of television;*
- b) to be responsible for the organization of the process of creation of TV production and for its broadcasting;*
- c) to carry on preliminary negotiations regarding the range of problems that deal with TV production and its broadcasting with the third party;*
- d) to participate in the elaboration and the approval of the decision concerning production and broadcasting issues of the TV programs, as well as the elaboration of decisions of general competence;*
- e) to draw up the television activity program, forwarding proposals for amendments to it;*
- f) to participate in the elaboration of basic principles for the production of TV programs, in the carrying out of big scale projects, within the limits of financial, technical, administrative means of the company in its present activity and within the period of developing joint actions;*
- g) to ensure the coordination of the activity of TV services and departments with the administrative and technical subdivisions of the company in its present activity and within the period of developing joint actions;*
- h) to draw up and propose for approval program strategy and television broadcasting schedule, work plan, the amount of broadcasting and other projects necessary for the television public service;*
- i) to ensure the creation of TV programs at a high professional and artistic level;*
- j) to adopt decisions, dispositions and other documents regarding present issues, in terms of his competences;*
- k) to forward proposals regarding television personnel policy, contributing to the professional improvement of its employees;*
- l) to be responsible for the observance of professional ethics, the Code of Conduct, labor discipline by the television personnel, in compliance with the internal regulations;*
- m) to execute orders given by the President of the company in terms of legal limits.*
- n) to execute other functions that do not contravene to the legislation in force.*

#### **Section 5. Radio Director**

**24. The executive radio Director is appointed and dismissed from his position by the Supervisory Board. The executive radio Director is dismissed from his position by the Supervisory Board by a vote of at least two-thirds of its members, at the request of the President of the company.**

**25. The executive radio Director has the following main functions:**

- a) to carry out the effective management of the activities of all radio services and departments;**
- b) to be responsible for the organization of the process of creation of radio production and for its broadcasting;**
- c) to carry on preliminary negotiations, including the third party, regarding the range of problems related to radio production and its broadcasting;**
- d) to participate in the elaboration and the approval of the decision concerning production and broadcasting issues of the radio programs, as well as the elaboration of decisions of general competence;**
- e) to draw up the radio action program and forward proposals for its amendments;**
- f) to participate in the elaboration of the basic principles of production of radio programs; in the carrying out of big scale projects, within the limits of financial and technical means of the company, as well as jointly with other companies or organizations;**
- g) to ensure the coordination of the activity of radio services and departments with the administrative and technical subdivisions of the company in its present activity and within the period of developing joint actions;**
- h) to draw up and propose for approval program strategy and the radio broadcasting schedule, work plan, amount of broadcasting and other projects necessary for the public radio service;**
- i) to ensure the creation of radio programs at a high professional and artistic level;**
- j) to adopt decisions, dispositions and other documents regarding present issues, in terms of his competences;**
- k) to forward proposals regarding radio personnel policy, contributing to the professional improvement of its employees;**
- l) to be responsible for the observance of professional ethics, the Code of Conduct, labor discipline by the radio personnel, in compliance with the internal regulations;**
- m) to execute other functions that do not contravene to the legislation in force or that are delegated by the President of the company.**

## **Chapter V. Company Subdivisions and Employees**

### **Section 1. Introductory Provisions**

**26. The basic subdivisions of the company are television and radio, which contain departments, editorial offices, services, sections, production teams, specialized in different fields, as well as other structures.**

This could be illustrated in an organisational chart added to which there should be rules on what kind of decisions can be taken at what level.

**27. The company can form artistic groups.**

**28. The company sets artistic councils and other advisory bodies.**

The meaning of artistic councils is not known.

**29. The regulations regarding the activity of subdivisions and other company structures is drawn up by the heads of subdivisions and are approved by the President of the company.**

**Personnel, salary categories (grades), the criteria and procedures of personnel selection is approved by the President of the company.**

**30. Labor relations in the company are set in the collective labor contract, signed between the employer (the official representative of the company) and employees (the employees' official representative), as well as in other normative acts of internal utilization.**

### **Section 2. Personnel's Employment**

**31. The Company's staff is employed in accordance with the labor legislation in force, with the selection criteria and procedures approved by the company.**

*The company signs an individual labor contract with each employee. The contract contains parties' rights and obligations.*

*32. The employment of production personnel is usually done on a competitive basis. The individual labor contracts of the employees employed on a competitive basis are drawn up for a fixed term.*

*33. The production personnel, employed within some projects, draws up their individual labor contract in accordance with the length of the project.*

*The President of the company signs collaboration contracts with untenured authors, as well as contracts for the rendering of some services with necessary specialists.*

*34. Company's employees can practice out of working time scientific, teaching and creative activities, but they cannot be employed in other mass media organizations that are not part of the company.*

Such activities must not disturb the work for the Public Broadcaster, neither through their content or timing.

*35. Company's employees cannot be affiliated to a political party or other social (public) and political organizations. In case they run for the elections, they have to cease their activity within the company.*

The substance of the ban on political affiliation is good. The expression "social (public) and political organisations" is rather vague in English but it is understood that this has a clear meaning in the original language, based on a law on such organisations. What is important is that employees are not active in political parties and known to be affiliated to such parties or similar organisations, which may affect the objectivity or impression of objectivity of the public service broadcaster. Such provisions should not be used to limit the right of employees to social activities in a manner that does not affect their work.

*36. The derogations of quality conditions, of the provisions of the job files or other obligations stipulated in the individual labor contract can lead to the employee's sanctioning, the modification or termination of the labor contract, in compliance with the legislation in force.*

### *Section 3. Ethics Norms and Incapability*

*37. The company's employees work in accordance with the norms of professional ethics.*

A special Code of Ethics would be very useful and it is good to refer to this. Such a Code would provide more detail on such matters as those mentioned in the next article.

*38. Company's employees are forbidden:*

*a) to receive money, gifts, services or other benefits that could be considered as a reward for execution or non execution of some actions related to professional duties;*

*b) to accept gifts, rewards, commissions, services or other benefits that could be considered as reward from the structures and organizations from the R. of Moldova or abroad for signing or termination of some contracts, for the insertion or non insertion, hiding or omitting some pieces of information, for the invitation of some persons to different programs, as well as other actions related to professional activity;*

*c) to make hidden advertising;*

*d) to advocate political parties;*

*e) to commit actions and deeds that do not comply with the journalist's ethics norms.*

*39. The infringement of ethics norms by the Company's personnel should be proved by evidence.*

This is somewhat vague, as it is not clear what kind of proof is needed and how this is obtained.

*40. The President of the company creates a Commission for Ethics that examines the issues of infringement of ethics norms by the company's personnel.*

*The President of the company approves the membership and regulation of the Commission for Ethics.*

*41. The Commission for Ethics develops the Code of Conduct of the company's employees, which has to be approved by the Supervisory Board. It also develops special norms and recommendations on the observance of professional ethics in producing and broadcasting TV and radio programs, publications, Internet sites, as well as in other spheres of the employees' professional activity.*

This is good, but it is important to keep in mind general programming codes of conduct and rules in the law that apply to all broadcasters.

#### **Chapter VI. Activity of Broadcast Programming and Organization**

*42. The company provides a diversity of programs that correspond to the interests of different social, national, religious, political etc. groups created in the spirit of observation of the principles of impartiality and objectivity. The company can create programs of a commercial character that do not contravene to its own statute.*

*43. Company's programs and its activity concerning the production of TV and radio programs must correspond to professional standards, adopted by the Company's administration (as form, content, conceptual integrity etc). These requirements are compulsory for all the employees of the company.*

*44. The broadcasting schedule, length, strategy and structure of the company's programs, professional standards and the requirements for TV and radio programs are developed by the Director of television, radio and the TV Moldova International department and is examined by the Supervisory Board, as the case may be.*

Only more fundamental principles need to be examined by the Supervisory Board. This issue is again related to what has been said elsewhere about a need for proper delegation.

*45. News programs should be presented with impartiality; comments should be separated from news. Information must be verified.*

*46. The programs whose content could harm the children's moral development can be broadcast between 23.00 and 6.00.*

*TV programs, cinema production and other type of audiovisual production of the company, which is not recommended for consumers who are less than 12 and respectively 16, will be marked with the corresponding identification signs during all their length, being anticipated by an announcement. The company sets the method of utilization these special conditions.*

Principles need to be in line with general programming principles applying to all broadcasters. The substance of these rules is good.

*47. Company's programs must comply with the following requirements:*

- a) to provide consumers with information, thus serving citizen and society's interests;*
- b) to be truthful, thus contributing actively to the creation of free opinion, including through discussions;*
- c) to promote the complexity of national heritage values, thus contributing to the development of cultural process;*
- d) to be of different genres (informative, documentary, investigative, feature, musical, dramatic, talk-shows, entertainment etc.) and orientation (educational, professional, sport, for children, youth, the old, special group of consumers);*
- e) to be created in accordance with a reasonable proportion of genre and topic, as well as in the languages of national minorities;*
- f) to foster the principle of tolerance towards other opinions and beliefs;*
- g) to ensure impartial, equal and competent debates on the discussed problems;*
- h) to exclude the possibility of appearance messages that contain instigation to war, aggression, propagation to violence, racial, national, class, religious intolerance, civic insubordination or instigation to commitment of crimes and public disorder;*
- i) shall not prejudice the state security; shall not defame the name, the nation and its language; shall not rouse to territorial separatism;*

- j) shall not harm honor, dignity, the right to personal image and the personal life of the person, in compliance with the provisions of national legislation and international acts, to which the Republic of Moldova is party;*
- k) shall not contain ideas, beliefs or demonstrations that contravene to moral norms;*
- l) shall not have an indecent or pornographic character;*
- m) to observe exactly the legal provisions*

See the comment above on general principles. The substance is very good and it is good to repeat these principles specifically for the Public Broadcaster – it is just important to ensure coordination so that no confusion may be created.

***48. The company is entitled to use the national network of broadcasting and reception in order to ensure the live broadcast of social, political, cultural, sport events, as well as events of major importance for the Republic of Moldova, and to promote the state and company's image.***

***The company can organize live, recorded and on commercial basis broadcasting.***

There are accepted provisions in e.g. EBU on public service broadcasters showing certain event of major importance to large sections of the population. Such provisions with some more detail – like on what events are meant - could be included or a reference made to the Code. There are provisions in the Code on events of special importance and on sessions of Parliament and Government as well as other political events, these provisions can be seen to be implied here also without specific mention.

***49. TV and radio programs can be broadcast or not only with the authorization of the President of the company or by empowered persons.***

The decision what to broadcast would form a normal part of the work of many different members of staff. This point allows for this, as it refers to empowered persons, but the reason for this point is difficult to see and gives the impression of centralisation.

***50. The acceptance or the interruption of TV and radio programs can be determined by production, rating or/and financial reasons.***

Programmes should not be interrupted other than in extreme cases. The point may refer to serials or other programmes that come back regularly. The reason for the point is difficult to see, it appears to refer to what would be a normal editorial decision which is covered by the editorial independence.

***51. The integral recordings of TV and radio programs broadcast by company are kept at least 30 days from the date of their broadcast.***

This must be in line with (or for a longer period) what is required by the Code.

***52. The programs created by the company represent its property and are protected in compliance with the law on copyright and related rights.***

## ***Chapter VII. Offering Airtime. Public Relations.***

### ***Section 1. Offering Airtime***

***53. The company offers airtime to election candidates during the election campaigns in compliance with the legislation in force.***

***54. The company can offer, on request, airtime for broadcasting church services.***

It is not clear here if it must offer such time. Public service broadcasters should broadcast religious services catering to the main religions of the country. Such broadcasts should normally be done for free (see next point).

***55. The company has the right to recover the money spent on offering airtime in accordance with points 53 and 54.***

***56. The company is entitled to refuse broadcasting the programs whose content contravenes to the legal provisions.***

***57. The company does not assume the responsibility for the content of the broadcast program in accordance with points 53 and 54.***

This point is potentially questionable. The broadcaster - public just like private - is responsible for the

content of all its broadcasts, regardless of the source. The broadcaster is responsible for that broadcasts meet with programming requirements in the Audiovisual Code or special codes. It is another matter that the broadcaster does not influence the content of programmes like political or religious programmes. However, they are still responsible for the broadcasts and must work out a way to ensure that the content is appropriate and does not violate any rules, through contacts with the originators of the programme content or other such means (special methods to deal with live broadcasts etc).

## **Section 2. Right to Reply**

**58. The company's administration grants the right to reply to any individual or legal entity, in compliance with the legislation in force. In this case all material proofs shall be kept until the dispute is completely settled.**

**59. The right to reply is offered within the same program or a series of programs within 5 days from the day when the request was submitted, but not later than 25 days from the date when the program was broadcast, in case when the person exercised its right to reply within 20 days from the time when the program to which the request refers was broadcast. The reply is not broadcasted live.**

**60. At the applicant's request, the exercise of the right to reply can be replaced, by the rectification of the made mistake by the company or by the program presenter, as well as through an official apologize. The dispute can be also settled through the execution of the decision of the bodies entitled with this right.**

**61. The time offered for the right to reply will not exceed the time used for the broadcast of information considered as wrong.**

**62. The television and radio executive Directors or the Director of TV Moldova International and RMI bear the responsibility for the broadcasting of rectification and for granting the right to reply.**

**63. The right to reply is not granted if:**

- a) The request to grant this right is ungrounded;**
- b) The presented reply has a indecent character, can involve criminal responsibility or generate another right to reply;**
- c) a documentary document, which is a part of a video or audio record from a session of the legislative body or court, is invoked as a ground for granting the right to reply;**
- d) The request was forwarded after 20 days from the date when the program was broadcast.**

Again, what the Public Broadcaster offers must be in line with general legal requirements or more generous than such requirements. As there are detailed rules in the Audiovisual Code it would be good to refer to this, preferably without repeating the requirements unless the Public Broadcaster wants to offer something that is more generous.

## **Section 3. Public Relations**

**64. The company is obliged to record and to analyze citizens' petitions, letters and addresses regarding its activity, ensuring, in terms of its competences, the observance of citizens' constitutional rights and freedom, and to inform them about the results of the examination of their letters and addresses within a month from the moment of their reception.**

This is very good and important.

**65. The company can have relations with different professional (national and international) organizations, governmental and non-governmental structures; can found associations and participate in their activity as a member.**

**The company cannot be affiliated to a political party, socio-political organizations or electoral blocks.**

**66. In relations and contacts with public and mass-media the company is represented by the President, TV or radio executive Directors as well as by a company's employee, appointed through an order.**

#### **Section 4. Access to Information. Confidentiality of Information Sources**

**67. The company is entitled to reflect the activity of public authorities. The state ensures the company's access to state archive, to information and documents that are at the public authority disposal, in compliance with the legislation.**

In modern European countries, access to information legislation should grant access to everyone, not just to journalists and in any case not just to public broadcasters. It is another matter that public broadcasters may broadcast certain activities of public bodies and have special rights in that respect. This article is best seen as a general statement whereas rules on access as such are found in other laws. In any case, this Statute cannot make legal obligations for the state to ensure access.

**68. The company ensures the confidentiality of its information sources in legal terms. The disclosure of information sources is allowed only under exceptional situation or in relation to an eventual damage of society's interests, but in strict compliance with the law provisions.**

**69. The Company's employees sign a confidential clause, as the case may be, which is kept in their personal file, when they are employed.**

### **Chapter VIII Advertising**

#### **Section 1. Introductory Provisions**

**70. Advertising is aired in the company's audiovisual means in compliance with the legislation in force. It has to be clearly distinctive and separate by distinct audiovisual means and it has to be inserted between/in programs.**

**71. The company is entitled to produce all types of advertising.**

The public broadcaster should not produce adverts, this is not a suitable task for the public service broadcaster.

**Advertising that affects the subconsciousness is forbidden.**

**72. Advertising time, space and area are the company's exclusive property. The company does not grant exclusive rights over the advertising time, space and area to any individual or legal entity.**

**The airing time devoted to advertising shall not exceed 12 % out of the daily broadcasting.**

It is not well understood what is meant by the first sentence: when advertising time is sold, this particular time is sold with exclusive rights to a specific entity. It is presumed the article refers to a ban to sell on a permanent basis to one entity only. As for advertising time this follows from the law. It would be better to have more limited time for the public service broadcaster than for private ones (as was pointed out in comments to the Audiovisual Code) but this is an issue for the law and the Statute must reflect what the law says. Even so, the Public Broadcaster should show more restraint in its manner of introducing adverts and similar and rules should be made for this.

**73. The company's news casts cannot be interrupted by advertising and cannot have sponsors, co-producers or informational partners. It is forbidden to place materials with a commercial character, no matter of its genre, in news casts. Advertising must not involve news presenters and commentators.**

**74. Company's employees can participate in engaging advertisers, in accordance with the provisions of normative act of internal utilization. Advertising supplier is not entitled to influence the content of company's program.**

#### **Section 2. Political Advertising and Hidden Advertising**

**75. Advertising regarding parties, political alliances, independent candidates as well as other types of political advertising is placed in mass-media structures of the Company exclusively during the election campaigns, in accordance with Electoral Code and other normative documents approved by the Central Electoral Commission and the Coordinating Council of the Audiovisual.**

**76. Political advertising that exceeds the limit of the free of charge time, approved by the Central**

***Electoral Commission and legislative norms , is aired with a 100% advanced payment, in accordance with the special regulation, drawn up and approved by the President of the company.***

In line with legislation on elections and similar, the Public Broadcaster should consider if and to what extent it will have political advertising. It may be good to limit such adverts only to the free time – if any - provided by law and/or decided by the election commission.

***77. The company's programs should not contain hidden advertising. It is revealed in accordance with a special regulation, drawn up and approved by the President of the company.***

***78. The programs that contain hidden advertising are not broadcasted. Persons, who allowed broadcasting programs with hidden advertising, infringed the points 75, 76 and 77 or infringed the legislation on advertising and are subject to a professional investigation with the application of disciplinary sanctions in compliance with labor legislation.***

#### ***Chapter IX. Financial Means of the Company***

***79. Financial sources of the company are:***

***a) state budget;***

***b) revenue obtained from rendering advertising services;***

***c) revenue obtained from the selling of broadcasting right and other rights over its own property;***

***d) means obtained from sponsorships and donations;***

Strict sponsorship rules are necessary.

***e) other legal revenue.***

Most public service broadcasters are financed at least to a certain extent through subscription fees, which allows a greater degree of independence than direct state funding (as elaborated in the comments to the Code). This is however something that can vary between countries. The Statute must follow the law.

***80. The financial means (budgetary and extra budgetary) of the company are used on:***

***a) the production or purchasing of TV and Radio programs;***

***b) the updating the technical and material base and special equipment of the company;***

***c) the filling in and the updating of the company's fixed funds;***

***d) the promotion and financial support of the projects that have national and international status;***

This is vague, the Public Broadcaster should only support projects in line with its normal work.

***e) production and presentation in premiere feature, documentary, science popularizing films, musicals, cartoons, dramatic plays, including the radio ones;***

***h) the organization and carrying out lessons and trainings, special and thematic courses, trainings, including those with the involvement of foreign specialists aiming at improving the activity of company's personnel.***

***i) the organization of concerts, exhibitions, sport competitions and other cultural actions;***

***j) the production and presentation in premiere of programs, author programs and talk-shows;***

***k) the expansion of mass media structures of the company by purchasing other publications, Internet sites, companies and radio channels;***

The Public Broadcaster must be able to deal effectively with its core function. It should not necessarily expand to other areas of the media or expand its network substantially.

***l) the purchasing from the holders the copyright for feature, documentary, science popularizing films, musicals, cartoons in order to be presented in company's programs;***

- m) financial support of the employees' trips abroad for business purposes, exchange of experience, business negotiations, signing contracts and agreements;*
- n) the subscription to publications, digests of news agencies, including the ones from abroad;*
- o) the creation and partial financing of a unique internal network of mobile telephony for administration, journalists and technical personnel of the company;*

Is such a thing really necessary and not only extra expense and work?

- p) the signing of individual labor contracts with untenured employees of the company for the performance of some urgent and specific work:*
  - s) carrying out special sociologic polls;*
  - t) covering organization expenses;*
  - u) other purposes that contribute to gaining profit and increasing the production potential of the company that will influence positively its image and reputation.*

*81. Under exceptional situations, the President of the company can decide on the utilization of extra budgetary revenues to cover the stipulated costs from the state budget, with their further recovery.*

*82. The company has the right to open accounts in MDL (national currency) and foreign currency.*

*83. The company can create special funds, which are formed of the general monthly revenue obtained from the company's extra budgetary activity. The number and the destination of special funds are approved by the President of the company. The funds are distributed by the President of the company, in compliance with the approved regulation.*

*84. To ensure extra budgetary financing of its activity, the company can sell, within the framework of internal and external auctions, its outdated or unused assets.*

*Internal and external auctions are performed in compliance with the legislation in force.*

*85. The President of the company orders the carrying out of auctions and approves the Auction Board membership.*

#### *Chapter X. Supervision and Control of the Company's Activity*

*86. The company activity is supervised by the Supervisory Board in compliance with the Audiovisual Code.*

*87. The Control over the company's commercial activity is performed by the bodies entitled with this right in accordance with the legislation.*

*88. Any actions taken regarding the execution of the provisions mentioned in the present chapter shall not infringe the company's right to freedom of information and freedom of expression.*