



**THE INSTITUTIONAL ASPECTS
AND FINANCIAL REGULATION
OF THE MASS MEDIA IN
THE REPUBLIC OF MOLDOVA.
FOCUS ON TELERADIO-MOLDOVA**

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ACRONYMS:

BBC	British Broadcasting Corporation
BCC	Broadcasting Coordination Council
EC	European Commission
IJC	Independent Journalism Center
PNBC	Public National Broadcasting Company “Teleradio-Moldova”
RTM	Macedonian Broadcasting Company
RRBC	Romanian Radio Broadcasting Company
RTC	Romanian Television Company
BNT	Bulgarian National Television
EU	European Union
EBU	European Broadcasting Union

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EXECUTIVE SUMMARY

This study was developed as part of “Development and promotion of a modern and democratic media environment in the Republic of Moldova” project, implemented by the Institute for Development and Social Initiatives (IDIS) “Viitorul” and aims at identifying the European standards on financing and financial transparency of mass media.

The study makes a comparative analysis of the transparency of the mass media funding sources in several European countries. It presents the position of the Council of Europe and European Union on the mass media ownership concentration, its effects on the pluralism of information sources and the funding of the public radio broadcasting service.

Methodologically, the study uses a combination of methods, focusing on the qualitative ones.

It is built around two major topics: the transparency of the mass media funding sources and the funding mechanism of the public radio broadcasting service.

The first chapter focuses on theoretical issues related to the European standards on funding and financial transparency of mass media. It refers mainly to the written press, although some elements are also applicable to the electronic press, with certain peculiarities. It also analyzes the mechanisms of subsidizing the press from public funds in some European states.

The detailed analysis of the Recom-

mendations of the Committee of Ministers of the Council of Europe R (94) 13 and R (99) 1 highlights the main categories of information to be published by media trusts and organizations. We also present the general EU regulations on the press support and financial transparency, including the European Directive 92/77/EEC, Directive 2004/18/EC, Regulation 994/98/EC, Regulation 659/1999/EC and other acts.

A comparative analysis of the European states’ experience shows the manner and the degree of implementation of the community legislation on the transparency of mass media funding. To ensure a better understanding of the information, we explained the regulation of the transparency of the broadcasting sector separately from the regulation of the transparency of the written press. We selected Bulgaria, Belgium, Denmark, France, Germany, United Kingdom and Portugal as the most relevant examples.

The chapter ends with the appraisal of the legislation of the Republic of Moldova on mass media funding and an outline of a few priority areas for intervention. We reviewed the basic legislation of the Republic of Moldova that sets the conditions for the activity of periodicals and press agencies. The relevant laws for this chapter were the Law on Press, containing a few provisions on the funding of periodicals, the Law on Advertising, regulating the mass media activity, the Law on Public Procurements, ensuring the

legislative framework for the financial relationships between the Government agencies and businesses, including mass media, the Broadcasting Code of the Republic of Moldova, the Electoral Code, etc.

The conclusions and recommendations on the alignment of the national regulatory framework to the European standards are focused on the improvement of the current situation and will be a major step towards the transparency of the financial relationships between the Government and the press in the Republic of Moldova.

The second chapter is more practical, stemming from the tackled subject, specifically the funding mechanism of the “Teleradio-Moldova” PNBC. The initiative derives from the “Teleradio-Moldova” PNBC Reform Strategy for 2010-2015, which provides the shift to a new funding system based on subscription fees.

The first part focuses on the analysis of the possibility to implement a new way of financial support for the public radio broadcasting service - the subscription fee. It also reviews the reasons of such initiative, explains the difficulties currently encountered

by “Teleradio-Moldova” Company, and presents the prototype model that may be applied, potential risks and implementation perspectives.

The novelty of the problem and the lack of local publications on this subject made us seek the information at first hand, specifically from interviews with the representatives of the management of “Teleradio-Moldova” Company and some line NGOs.

To have a clear picture of how funding based on subscription fees (the radio broadcasting fee) works, the second part of the chapter reviews the community regulations and the experience of the European states in applying this financial instrument. It focuses on the practice of Germany, Macedonia, Slovenia, Serbia, Denmark, Bulgaria, Romania and other states.

In the end the study presents some conclusions on the opportunity of the new funding methods for public radio broadcasters of the Republic of Moldova, the advantages and disadvantages of the radio broadcasting fee and experts’ opinions on the financial and editorial transparency and independence of “Teleradio-Moldova” Company.



INTRODUCTION

The transparency of the mass media funding sources impacts directly the pluralism in a democratic society and the media pluralism implies mainly the plurality of information sources and diversity of media owners.

However, on the background of the economic and political situation over the past years, the media institutions are increasingly vulnerable to external factors and the increasing financial dependence continues to be one of the primary factors threatening their good functioning. Moreover, the interests of funders and owners of mass media sources are often too obvious to be neglected by the society and the Government agencies.

Assuming such a scenario, the international organizations reacted promptly by approving the regulations and principles to govern the transparency of mass media funding sources. Thus, the recommendations of the Council of Europe and EU directives establish conditions for citizens' access to information of public interest in the broadcasting and written press.

To facilitate the identification of information about media institutions, the Council of Europe established five categories of data that shall be made available to the wide public: the identity of the persons or organizations that owns the media outlet; the stake in other media outlets owned by the editorial structure or persons or organizations owning shares in the media institution; the persons or organizations that, though not declared

official owners, have decisive influence on the editorial policy of the media outlet; any statement on the editorial policy or political orientation of the media outlet; information on the transparency in the provision of direct assistance to some publications.

Each state transposed these provisions in its own way, ensuring that the expected result is achieved. The degree of their implementation is determined very much by the rating given by international monitoring structures in respect to the press freedom and transparency and here the national regulatory framework plays the essential role.

The solution to the problem depends on the identification of areas for intervention and the way in which the transformation will be done.

Since the Republic of Moldova tends to meet the European standards, an immediate legislative intervention is required for the transparency of the mass media funding sources, privatization of the press, Government support for periodicals, transparency and distribution of public funds for mass media, public advertising, reform of the broadcasting sector, etc.

While reforming the broadcasting sector, major attention should be paid to the establishment of the funding mechanism of the public radio broadcasting service. This was confirmed by the European Union and the Council of Europe, which recognized that public service broadcastings play an impor-

tant role in the fulfillment of the democratic, social and cultural needs of any society. Insuring the pluralism, freedom of expression and correct information of the public is the basic task of the public TV and radio broadcasting service.

The Government's participation on the radio broadcasting market is justified by the need for some types of programs of general interest (such as cultural and electoral programs, programs in the languages of national minorities, etc.) and by the coverage of some geographical areas (especially rural) where the private radio and TV stations do not broadcast, mainly because of the inefficiency of broadcasting such programs or covering certain geographical areas.

These needs, however, cannot be met without an appropriate funding of the public radio broadcaster, which means not only provision of the necessary funds, but also identification of funding sources and manner. These are the elements that impact greatly the organization of the public radio broadcasting and the correct financing system is the key for the fulfillment of this public mission.

According to European states' experience, the joint funding model, based on subscription fees, state budget subsidies and other public funds proved the most successful. This may be explained by the fact that one single

funding source cannot produce enough income to secure the fulfillment of the public mission and the dependence on this specific source may threaten the independence of the public service.

On the contrary, the combination of various funding sources enhances the accountability of the public radio broadcaster and is more efficient in a changing environment, where some sources may suddenly disappear, while others emerge and develop.

In a market economy, where modern public radio broadcasting services must diversify their offer and provide new services on new platforms, "Teleradio-Moldova" PNBC still depends on the funds allocated from the state budget, which are not enough for a normal operation and development. That is why one of the basic goals of the company modernization and refit is to establish the joint funding mechanism, by introducing subscription fees for the public radio broadcasting.

Of course, it is a long process, requiring the analysis of risks, limitations and possible developments.

Nonetheless, the success of such a reform depends greatly on the political will, public opinion, existent traditions, etc., and the final benefit will consist in ensuring the access of citizens to trustworthy sources of information and entertainment.

CHAPTER I. REGULATION OF THE TRANSPARENCY OF MASS MEDIA FUNDING SOURCES

Mass media transparency refers to other issues, besides the transparency of the press trusts, such as:

- mass media concentration
- the public-private separation for the radio stations and TV channels
- editorial freedom
- journalists' financial state

The concentration of mass media in the hands of a narrow category of people may lead to the deterioration of the media discourse and exclusion of the different opinions. Moreover, because only some political opinions are presented widely, while others are marginalized, the political, economic and other interest groups may take advantage of their dominant position in the media to abuse power¹.

On the other hand, even when the concentration is limited, this does not mean the media pluralism is secured. The reverse is also true. A wider concentration in small countries does not necessarily mean the lack of pluralism since there are only a few radio stations and TV channels².

Ensuring a balance between the pluralism and competition remains the most con-

¹ Commission Staff Working Document, "Media pluralism in the Member States of the European Union", Bruxelles, 16 January 2007.

² The European Institute for the Media, The information of the citizen in the EU: obligations for the media and the Institutions concerning the citizen's right to be fully and objectively informed; European Audiovisual Observatory, Media Regulation in the Interest of the Audience, January 2006.

troversial issue. In most cases all areas relevant for transparency relate to national regulations and do not involve the European Union, except for formal level (Tuca V., 2008:1).

1.1. The Transparency of Mass Media Funding from the Perspective of the Recommendations of the Council of Europe and EU Directives

Currently it is safe to say that any area of activity and especially the legislative initiatives are influenced directly or indirectly by the obligations assumed by the Republic of Moldova as a member of the international and regional organizations. This means that when implementing national reforms, the lawmakers will follow the guidelines and recommendations of these international bodies, sometimes introducing the provisions of these documents directly in the national law.

When it comes to the transparency of the mass media funding sources, the Council of Europe is still the most active international organization. The regulation directly addressing the transparency is the **Recommendation Rec (94) 13 of the Committee of Ministers**

to member states on measures to promote media transparency³.

Passed on 22 November 1994, this document practically serves as the most important guide for the member states of the Council of Europe in respect to the public access to the information about the funding sources of radio stations, TV channels and written press.

It is supported by the following two regulations:

- **Recommendation Rec (99) 1** of the Committee of Ministers to member states on measures to promote media pluralism⁴;
- **Recommendation Rec (2000) 23** of the Committee of Ministers to member states on the independence and functions of regulatory authorities for the broadcasting sector⁵.

Although, these acts do not have a direct effect on the national legal framework and are not compulsory for the member states, they present a common standard, accepted by all member states of the Council of Europe, including the Republic of Moldova, which is member to it since 1995 (IJC, 2008:32).

A brief review of these acts will allow us to get the general picture of the current regulation of the mass media transparency. Thus, according to point 10 of the Explanatory Memorandum from Appendix to **Recommendation Rec (94) 13**, the mass media transparency is defined as “*the possibility [of the public] of having access on an equitable and impartial basis to certain basic data on the media*”. The purpose of the transparency, according to the second thesis, is to provide the

public with the possibility to know *who are the owners of the media so as to be able to form an opinion as to the value of the information disseminated by those who manage the radio stations, TV channels or newspapers.*

According to the vision of the Council of Europe, the public should have access to at least the data about the identity of persons in managing positions in the radio broadcasting service or the press undertaking and, if they are used by a legal entity, the identity of the associates of this legal entity. At the same time, considering that the number of these associates may be very large, only the main associates' identity could be made public.

The public should have access to the information about the procurement of the media property, through a request made either to the competent bodies, or to organizations working in this area. Point 13 of the Explanatory Mandate recommends that the national legislation stipulate the obligation of the written press to publish these data “*in accordance with a time-frame which might vary depending on the information in question (for example, in each new edition for data concerning the identity of those responsible for the publishing structure, once a year as regards the publication of financial results)*”.

According to the recommendation of the Council of Europe, it is important to inform regularly the interested stakeholders about every change of the owner of the press undertaking.

As the text of the recommendation itself distinguishes the information on the transparency of the broadcasting sector and that of the written press, the provisions that may be introduced in the national legisla-

³ The text is available at: http://www.ebu.ch/CMSImages/en/leg_ref_coe_r94_13_transparency_221194_tcm6-4266.pdf.

⁴ Available at: http://apel.md/files/docs/Rec_99_1pluralism_mass_media_ro.pdf.

⁵ On-line at: <http://www.acces-info.org.md/index.php?cid=123&lid=99>

tion of the member states may be classified in two distinct categories:

1. the norms regulating the transparency of the broadcasting sector;

2. the norms referring to the transparency of the written press.

We should mention here that for both categories of transparency, the information should be communicated to the public by respecting the legal rights and interests of the people or organizations that must reveal this information. The recommendation also implies safeguarding the competition, which could be affected or, more generally, compliance with the rules of market economy, which request that the trade secret shall be maintained, within certain limits (Tuca V., 2008:4).

Recommendation Rec (99) 1 of the Committee of Ministers to member states on measures to promote media pluralism recommends the member states:

(i) to review the proposed measures and to consider their inclusion in their national legislation and practices, if needed, to promote the pluralism of mass media;

(ii) to assess regularly the efficiency of the taken measures and to examine the need to review them in line with the economic and technological developments from the mass media sector.

The Council of Europe underlines the importance of developing a legal framework able to prevent or counter the economic concentrations that might threaten the media pluralism at the national, regional or local levels. In this context the member states should establish ceilings in

their national legislation on press, to limit the influence the same business or the same trade group may have in one or more mass media sectors. These ceilings could be based on maximum audience (the printing run) or the written press businesses' income/turnover rate. This imposes the need for trustworthy mechanisms for the audit of the printing run and revenues generated by them.

The Governments might also establish limits for the equity shares in mass media businesses. If the national Governments deem inappropriate to establish a separate institution authorized to act against merges or other concentration operations threatening the media pluralism, the general anti-trust authority should pay particular attention to the media pluralism when considering the merges or other economic concentration operations in this sector.

Recommendation Rec (2000) 23 of the Committee of Ministers to the member states on the independence and functions of regulatory authorities for the broadcasting sector refers particularly to the need for such authorities in the member states, which would carry out their duties effectively, independently and transparently, as stipulated in the national legislation.

The regulatory authorities of the radio broadcasting sector should monitor the compliance with the rules on media pluralism and, in some cases, on competition, as well.

As for **the general regulations of the European Union** in respect to the financial transparency of the mass media, there are two directives on competition which can

be relevant for transparency, specifically:

- **Directive 2004/17/EC of the European Parliament and of the Council** coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors;

- **Directive 2004/18/EC of the European Parliament and of the Council** on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.

Directive 2004/18/EC, which urges member states to ensure the transparency of public offers, costs and benefits of the companies that received subsidies, is more relevant. The national authorities of the member states are required not to differentiate between the state-owned and the private companies. Another regulation refers to the prevention of the formation of a dominant position. These provisions are related directly to the transparency in the mass media, pursuing an effective competition among the mass media businesses in awarding such contracts.

As the experience shows, at the European and community levels there is a whole range of regulations which, when appropriately implemented in the national legislation, will make the mass media transparent, and ensure access to information of public interest to citizens. The question is, however, to what extent these provisions were reflected and are observed in the national legislations of the member states.

1.2. Other States' Legislations on the Transparency of Mass Media Funding

Once accepting the European direction as the priority course for the development and a solution for integration in the pan-European area, the Republic of Moldova assumed the commitment to align the national legislation to the European standards. The best way in this respect seems to be the review and adoption of the best legislative practices applied in the member states and adjust them to the peculiarities of the national legal framework.

Considering the nature of the European recommendations, which do not have a direct applicability and must be transposed by the member states, the way how they did it is of particular interest. For this we identified and analyzed the most relevant provisions on the transparency of the mass media funding sources in the following countries: France, United Kingdom, Germany, Greece, Denmark, Bulgaria, Belgium and Portugal.

As the text of **Recommendation Rec (94) 13** distinguishes the information on the transparency of the broadcasting sector and that of the written press, we will analyze the provisions that may be introduced in the national legislation of the member states based on this classification.

1.2.1. Regulation of the Transparency in the Broadcasting Sector

The regulations governing the transparency of the *broadcasting sector* are applicable both to the TV and radio services, irrespective of how they are received (cable, satellite, etc.), coverage area (national, regional or local) or whether an access fee is paid or not.

According to Recommendation Rec (94) 13 the transparency in the broadcasting sector refers to three categories:

a) information about the identity of people or organizations that have shares in the structure operating the respective media outlet and the nature and share of these persons or bodies' equity in the respective structure.

The information may include data about the identity of individuals or legal entities (media companies or trusts), if it is a company (or association) with the status of a national or foreign legal entity; the domicile or place of residence and profession, if it is an individual. Other information relate to the structure of the Managing Board, the identity of the President, the Managing Board members' financial position, the distribution of shares, the share of votes in the Managing Board, etc. Besides the equity and the paid capital, another means by which the transparency may be imposed consists in revealing other type of contributions to the paid capital (for instance human resources, equipment or other services), which may tip the scale in favor of some seemingly less important shareholders.

Reviewing the legislation of some European states, one can note that the broadcasting sector is supervised by a board empowered to check the data listed in point a). Here are a few examples of such regulations.

Bulgaria establishes through the Law on the Protection of Competition and the Related Rights and the Law on the Broadcasting Sector, both passed as early as in 1998, that the joint stock companies and limited companies shall be registered with the Trade Agency from the Ministry of Justice⁶, which provides information against a fee. One may request financial information about the media outlets operating under a license.

Unlike private media companies, the state-owned companies must publish annually all the information on the site: <http://www.bse-sofia.bg>.

The regulations applicable to the same area are contained in the Law on Access to Public Information, passed in 2000.

In **Belgium**, for instance, the Law/Decree on the Broadcasting Sector, passed in 2005 and developed for the Wallonian community, establishes the Superior Broadcasting Council as an independent institution. It publishes the list of all radio stations and TV channels in Wallonia, ensures the public access to the name of the media organization, its address, the broadcasting company, the paid capital, the shareholders' names and structure.

In **Denmark**, according to the Danish Radio and Television Broadcasting Act⁷

⁶ Details at: http://www.registryagency.bg/?page_id=789

⁷ The Danish Radio and Television Broadcasting Act, No 1052 of 17 December 2002, available at: <http://media.parlament.org.ua/uploads/files/f105.pdf>.

(Article 45), the licenses for operation are issued by the Radio and Television Board. The Ministry of Culture regulates the conditions a participant in the public offer must meet. The radio or TV companies must submit documents and all information required by the Radio and Television Board.

The Danish Commerce and Companies Agency provides information about any business, including those from broadcasting or written press. The Agency includes a service which deals exclusively with the provision of up-to-day data. Denmark adopted the practice of publishing the information of public interest on the Internet⁸.

The example of **France** is relevant through expressiveness and openness of the Freedom of Communication Act⁹, passed on 30 September 1986, which, in Article 43(1) stipulates four obligations of the mass media owners in the broadcasting area. Thus, the information that must always be accessible for the public refer to:

- the name and address of the registered office, the name of the legal representative and the biggest three shareholders;
- the name of the publications CEO and editor-in-chief;
- the list of publications edited by the respective legal entity and the list of other broadcasting outlets it owns;
- the fees charged for the services provided to clients.

The Law of **Germany** on Radio Broad-

casting, passed in 1991 at the federal level, contains compulsory provisions for all lands, each of which, otherwise, has its own regulatory authority/body for the broadcasting sector. This law obliges the media companies to publish data about the shareholders, paid capital and other data about the identity of individuals or legal entities holding shares in this media organization.

A national authority with an important role for the transparency of the funding sources and identity of the shareholders is the **German Commission on Concentration in the Media** - KEK¹⁰. Established in 1995, KEK is responsible for the transparency of the property of private radio stations and TV channels. It publishes an annual list of radio broadcasters, which contains data about all TV programs, broadcasting companies and their shareholders.

The transparency of the funding sources in **Portugal** is regulated by Article 5 of the Television Law¹¹, which stipulates that *“the shares representing the paid capital of television operators, which are part of a public limited company, shall be nominative. The description of holders of qualified holdings in the capital of the television operators and of holders of special rights, respectively itemized, and indications of holdings in other similar entities are published together with the report and accounts and the respective editorial policy every calendar year in one of the national large-circulation general periodicals. Their annual financial position is also published. Significant influence on management is deemed to be whenever the partici-*

8 Details at <http://www.cvr.dk/Site/Forms/CompanySearch/CompanySearch.aspx>.

9 Freedom of Communication Act, No 86-1067 of 30 September 1986, available at: <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006068930&dateTexte=20101025>.

10 The official website: <http://www.kek-online.de/cgi-bin/esc/beteiligung.html#fern>.

11 The Television Law, No 32 of 22.08.2003, available at: <http://www.anacom.pt/render.jsp?contentId=979664>.

pant holds at least 10% of the capital or of the voting rights within the company.”

As a **conclusion**, we may note that all analyzed countries comply with the recommendation of the Council of Europe on the transparency of information on the structure of the company operating the respective media outlet. A legal authority may issue the broadcasting license or may restrain from this on the basis of the information presented by the applicant. The broadcasting laws of the member states stipulate access to data about the mass media owners, which can be corroborated with the information obtained on the basis of other laws, namely from the trade register or, in the case of the written press, due to access to the public information.

b) information about the nature and stake of a TV channel or radio station in other media outlets or mass media enterprises or even in other economic sectors
(cross media ownership)

The disclosure of this information may be necessary to guarantee the transparency of mass media in respect to the development of the cross media ownership, the multimedia concentration and internationalization of the activity of the mass media companies.

At the same time, this category of information is fundamental for the freedom of expression, which can be provided only by a variety of media outlets. The mass media concentration in the hands of just a few persons and the promotion of their economic and political interests represents an attack on the freedom of expression, freedom of fair information and impairs severely the democratic process.

The Council of Europe recommends member states that this category of information, the mass media must present to the competent national authorities, should be extended to related media sectors, for instance, the production of radio and TV programs.

Besides, this category of information includes the media owners holding paid capital in private trade companies.

We can find a relevant example in the legislation of **Greece**, which went the farthest in this area, establishing the requirement that people who participate in bids for public works and hold radio stations or TV channels present a criminal record (or an affidavit) on non-involvement in acts of corruption.

In Greece a company may hold only one authorization to operate a TV channel. An individual or legal entity may own share capital in a single TV station in the ratio of up to 25% of shares. It is forbidden to own equity capital of more than two types of media (Tuca V., 2008:8).

c) information about people or organizations that, though not declared official owners of radio stations or TV channels, in fact, have a decisive influence on them.

This aim is the most difficult to achieve since the people with the power to influence the media hide most skillfully. Their interests may vary from the political to economic ones. The Council of Europe puts forward as a working hypothesis the situation with the family relationship between the major shareholder (the straw man) and the person with the power of influence on the respective company. Such references already exist in the

legislation of some EU member states (Tuca V., 2008:8).

Finally, regarding the transparency of the funding sources the member states of the Council of Europe are recommended to inform the national Governments that issued the license about any change of the capital distribution or, in any case, any considerable change, even when it does not lead to the change of the management of the company and even when this has no effect on the company's orientation.

The relevant information may be obtained if there is transparency about the subsidies disguised as advertisement contracts with state-owned companies.

1.2.2. Regulation on the Transparency of the Written Mass Media

The provisions that should be introduced in the national legislation to ensure the transparency of the written press cannot be identical with those that are applicable to the broadcasting. This difference relates to the fact that the procedures for information disclosure cannot be similar for both areas, given the fact that, unlike the broadcasting, the establishment of the written press media outlets cannot be subject to a system of authorization.

With a few exceptions, the information in the area of written press that should be disclosed does not differ fundamentally in its content from that requested for the broadcasting. However, there are a few elements specific to the written press, which should be

taken into consideration.

Returning to the regulations of the Council of Europe, we can distinguish five categories of information on the transparency of the written press:

a) information about the legal entity that owns the respective newspaper.

This category should include the obligation to disclose the identities of all founders or shareholders of the periodical and agency or only the identities of those who own considerable shares in the capital of the company.

This requirement may be extended not only over the acts entitling with a part of a property, a managing, guiding, monitoring authority, but also over the acts that could achieve the same goal in the future (for instance, a promise of conveyance).

These may include data about the identity of shareholders or may be limited to those who own significant shares in the capital. Significant share means the shareholders who own more than 10% of all shares of the respective company. Another possibility consists in relating to the number of shareholders (for instance, five major shareholders).

The transparency may also be achieved by requiring to publish the contracts through which certain people are entitled certain rights related to the editorial decision-making authority or the right to assess the functioning of the respective press organization. These provisions on transparency may also be applied to a promise of sales or use of the respective newspaper.

Let's see to what extent these recommendations are reflected in the legislation of the

member states of the Council of Europe.

The Access to Public Information Act of **Bulgaria**¹² obliges the mass media to provide the “*information referring to mass-media transparency*” (Article 3(3)). According to Article 18 the information may be public only if it concerns:

- the people that are part of the management of the respective media outlet or exercise effective control over its management or its activities;
- business related parties that also participate in the management of other mass media, which allows them to exercise an effective control over their management or activities;
- the people who are involved directly in the mass media and participate in the development of its editorial policy;
- the financial results of the mass media's owner and their market share.

The access to information about media should be used in such a way as to ensure a balance between the principle of transparency and that of protection of personal data and economic freedoms.

Denmark is one of the most tolerant countries in terms of press transparency. The National Code of Conduct of the Denmark was passed in 1992, with the approval of the National Union of Journalists.

The Code does not refer to the funding sources of journals or to shareholders, since this information is available at the Ministry of Trade, in the case of the press trusts, together with individuals who are the major shareholders.

¹² The Access to Public Information Act, No 55 of 07 July 2000, available at: <http://www.aip-bg.org/library/laws/apia.htm>

Almost all information of this kind can be found online. There is a specialized site with data on Danish journals, their orientation, market share and the names of the companies that own them: <http://www.info-media.dk/dk/ServiceMenu/English>.

In **France** the Freedom of Communication Act No 86-1067 of 30 September 1986 is an important law for the transparency of the information sources. It prohibits the media outlets to issue shares to bearer (Article 40). Thus, this law attempts to remove the control from behind the curtains of the official owners of the press companies. The law requests the publication of the names of the director of the journal, the owner or legal representative of the press trust, the respective publication belongs to, and of the main three shareholders. If the director of the publication has parliamentary immunity, he must appoint a co-director responsible before the civil and criminal law.

Another provision of the same law prohibits donations or other financial advantages from a foreign government.

The competition law is another important law for the mass media funding sources. The Antitrust Board supervises that the press trusts do not exceed 30% of the written press nationwide distribution.

In **Germany** no land has a law on press, but there is a **Press Code**¹³ which dictates the ethics of the journalist profession. This code was approved by the German Press Council in Bonn (Presserat), but it may impose its decisions on the written press only occasionally. The relation of the mass media with the Council continues to be based on the prin-

¹³ German Press Code of 12 December 1973, available at: http://www.presserat.info/uploads/media/Press_Code.pdf.

principle of self-regulation. This institution has information about German periodicals and the Press Code of Journalists.

As expected, the problem of the transparency of the written press funding sources in **the United Kingdom** follows the general Anglo-Saxon model of self-regulation. The Press Complaints Commission is in charge of applying a Press Code, developed by journalists and media industry and ratified by the Commission in 2006. Each journal formed its ethics on the annual publishing of their funding sources or financial position, in the pages of the respective publications, although this obligation is not imposed by the Press Complaints Commission.

Article 16 of the Press Law¹⁴ of **Portugal** stipulates that “*for all publications organized as limited liability companies, all shares shall be nominative*”. Thus, it excludes the possibility of disguising the real owner through issuance of shares to bearers. The technique is known and consists in selling shares to another person, coupled with a secret contract which specifies that the property of the newspaper remains under the ownership of the seller (Tuca V. 2008:11).

The list of shareholders and the number of shares or other titles of ownership in one or several press companies, owned by the same group, must be published in all journals of the respective companies, in April of each respective year. At the same time, the list must be sent to *the High Authority for Mass Media*. According to this law, the press companies must reveal the circulation of the publication. Another obligation refers to the inclu-

14 The Press Law No 2 of 13 January 1999, available at: http://www.dgpj.mj.pt/DGPJ/sections/leis-da-justica/livro-v-leis-sobre/pdf2215/l-2-1999/downloadFile/file/L_2_1999.pdf?nocache=1182265547.56.

sion of an annual report on the accounting situation, sources of the paid capital, such as earnings invested in other businesses, loans or donations by the end of the first semester of every year.

b) information about the stake owned in other mass media by the editorial structure or people or organizations holding shares in it (cross-ownership).

The information from this category relates, first, to the equity shares in other editorial companies (national and/or foreign), but also to the shares in the authorized capital of the broadcasting outlet to be able to identify the cross properties of the companies from the respective sector and multimedia concentrations. These provisions can also be applied to the shares owned in the capital of companies from the sectors related to the press (for instance, advertising agencies, publishing houses).

c) information about people or organizations that, though not declared official owners, have a decisive influence on the editorial policy of the press bodies they manage.

This refers to the information about people or organization that, besides the official managers of the editorial structures, may have a significant influence on the editorial orientation of this press organization¹⁵ (IJC, 2008:34).

It could be relevant to identify the people or organizations that have a significant

15 For instance: The Freedom of Communication Act No 86-1067 of 30 September 1986 of France or, indirectly, Section 6.1 of the German Press Code of 12 December 1973, speaks about the incompatibility of the profession of journalist or publicist with other positions, for instance in a Government, public authority or private company.

role in the editorial policy of a newspaper, which formally is registered under the name of other owners. Another hidden influence on the newspapers may be exerted by companies that advertise themselves in the respective journals.

d) information about any statement on the editorial policy or political affiliation of the press organizations

If the activity of the press organization is regulated by a text that defines its editorial policy or political orientation (for instance, the internal regulations), then it should be published. The disclosure of this document would allow the public to form an opinion on the values promoted by the publication's editorial policy.

e) information about the transparency in the case of direct assistance for some publications or when the press concentrations are allowed under an established threshold.

The information from this category are relevant for public authorities. The first case takes into account the allocation of direct subsidies for certain publications. This means an active role of the Government to maintain the media pluralism for the sake of some products (cultural or specialized publications in areas of lower interest) that could not survive on the mass media market. The criteria on the basis of which the subsidies are provided must be clear and precise. In this case the responsible authorities of the Government may request concrete data on the financial position of the respective publications.

The second case refers to the supervision of the compliance with the anti-concentration

threshold. The data on the mass media owners must be presented to public authorities, for instance, to the Antitrust Board, which must check and take actions if they find an concentration that exceeds the allowed limit. We should mention that the disclosure of this information may be provided in different branches of the law (the trade law or the mass media law). On the other hand, the publication of this information may prove useful, for instance, to allow the public to anticipate possible changes of ownership over the press bodies as a result of poor financial performance of these publications.

Hence, **we can draw the conclusion** that the transparency in the funding sources of the *press* is achieved either through a journalists' Code of Ethics (self-regulation - as in most European Union states) or through a press law (as in the case of Portugal). The norms are applied either by an organization of journalists without a legal power (as is the first case) or by a mass media authority (as is the second case), whose decisions are compulsory.

1.3. Review of the Legislation of the Republic of Moldova on the Mass Media Funding. Areas of Intervention

The regulatory framework on the activity of media institutions in the Republic of Moldova was tackled at numerous conferences, workshops, round tables and debates, which resulted in the development of proposals for its improvement. Particularly, the de-

gree of compliance of the national regulations with the European standards was addressed.

In experts' view, on the whole, the legislation on mass media in the Republic of Moldova is good and though there are some flaws, they are insignificant as compared to the implementation of the legal norm, which is regarded as very bad.

The monitoring of the implementation of relevant legislation should be the main goal and journalists believe that the emphasis should be made on mechanisms of implementation and compliance with the regulatory framework; otherwise all efforts risk to be useless.

This said, we suggest to check the accuracy of such statements and to analyze the legislation in force on the transparency of the media funding sources.

The relevant provisions of the national legislation, whose application determines the economic relationships between the Government and mass media are as follows:

- The Constitution of the Republic of Moldova;
- Broadcasting Code of the Republic of Moldova No 260 of 27 July 2006;
- Electoral Code of the Republic of Moldova No 1381 of 21 November 1997;
- Press Law, No 243-XIII of 26 October 1994;
- Law on Advertising, No 1227-XIII of 27 June 1997;
- Law on Public Procurement, No 96-XVI of 13 April 2007.

Each of these acts contains some regulations on the mass media funding and transparency of this process.

Article 34 of the **Constitution** regulates the right to information and refers to the mass-media function: “(4) *The State and private media are obliged to ensure that correct information reaches public opinion.*” This task is equally true both for the private and state-owned periodical publications. This provision is taken and developed further in the laws on mass media.

For instance, **the Broadcasting Code of the Republic of Moldova**, in Article 7(5), contains provisions on the protection of pluralism and diversity in the broadcasting sector by limiting the concentration of property and avoiding dominant positions in the formation of the public opinion. This principle is also applied by the Broadcasting Coordination Council (BCC) when issuing the broadcasting license (Article 23(3)). The announcement on the contest for available frequencies, published by the BCC in the Official Gazette, on its own website and in other local mass media, will also encompass an application template, which will show the identity data of the owner and funding sources of the programs (Article 23(6)).

The Electoral Code, in Article 64¹, stipulates that “*in the first week of the electoral period, each radio broadcaster shall present to the Broadcasting Coordinating Council a statement on the editorial policy for the electoral campaign, indicating the name of the owners of the institution*”. The declarations are published on the BCC website.

Unfortunately, without a mechanism ensuring the enforcement of these provisions, the legal norm is literally dead. As an authority in charge of implementation and compliance with the broadcasting legislation, the

BCC should clarify this chapter, particularly by issuing detailed guidelines on what specific data about should be revealed about the owners and funding sources.

The Press Law regulates the organization and the framework conditions for the mass media operation. It stipulates that the periodicals and press agencies shall be self-funded. At the same time, Article 12 establishes a range of derogations for the direct funding by the Government of the media institutions (periodicals and press agencies) established by public authorities:

“(1) The periodicals and press agencies shall be self-funded. The periodicals for school- and pre-school children shall be funded by the Government; in this case the respective ministries (departments) shall become their founders (co-founders).”

Seemingly the provision is welcome, but in this case the respective ministries and departments become founders (cofounders) of these publications, which suggests the idea that they will promote some political views. As a consequence, the education, which needs to be protected against political intrusion more than any other area, becomes a tool used to promote some interests. The following provision also contains gaps:

“(2) The periodicals and press agencies founded by public authorities shall be funded from the respective budget.”

The emphasis here is made on the publications founded by the Government, which can influence negatively the development of the private press, compelled to survive in extremely tough economic conditions.

Besides, the only elements of transparency of the periodic press and press agencies fund-

ing relate only to the biannual publication of the donations received from individuals and legal entities:

“(3) To support the periodical publications and press agencies donations from individuals and legal entities from the Republic of Moldova and abroad shall be allowed. The periodicals and press agencies shall be obliged to publish twice a year - in January and July - the information about the source and amount of donations, including the non-cash donations.”

The law on press prohibits the direct funding by a foreign state, except for the cases when there is a special agreement in an international treaty concluded bilaterally with this state.

“(4) The funding or any other kind of support for the periodicals by the Governments of foreign states shall be prohibited, except for the cases when this is stipulated in the bilateral inter-government agreements.”

We can say that this provision is more than controversial. Its supporters will not hesitate to refer to similar provisions from the French legislation¹⁶, excluding by this any external influence perceived as beyond the bilateral governmental cooperation relations. On the other hand, this provision contradicts the practice of the European Court of Human Rights, according to which owning, funding or any other kind of foreign support for mass media represent activities in favor of the freedom of expression, because the respective institutions do not interfere with the content and do not influence the editorial offices in expressing their views (Spinei V., 2003).

A restrictive interpretation of the norm of Article 12 places outside the law any support,

¹⁶ The Freedom of Communication Act No 86-1067 of 30 September 1986 of France.

direct or indirect, of the press from any foreign public funds. According to many experts (national and international), this norm contains a potential risk for the cooperation programs with international organizations and does not have the needed toolkit to monitoring of all forms of direct and indirect forms of support practiced by other states (IJC, 2008:29). Other conditions, forms or procedures of direct or indirect support or those that would impose transparency requirements for the press are not provided in the respective law.

Moreover, analyzing the five categories of information referring to the transparency of the written press, listed in Recommendation Rec (94) 13 we can see that the law does not stipulate any requirement on its disclosure. The note in Article 13 (the reference data of the periodical) according to which each issue of the periodical should include, inter alia, the *founder's name*, does not even fall within the first category stipulated in the Recommendation. Here the term “founder” is used inappropriately and does not have the meaning attributed to it, because the public information should refer to the “owner” of the publication.

The provisions about the “founder” and “budget subsidizing (endowment)” for only a few publications create an extremely dangerous context, because the Government has simultaneously the role of competitor on the informational market, legislator and direct or indirect promoter of its own interests.

Given the aforementioned facts, we conclude that the Press Law, in its current version, is completely outclassed by the evolution of the relations and phenomena in the modern society, unable to create a functional platform

for the press. By supporting directly, fully and unconditionally some actors, the law affects the free competition in this area.

Thus, the Press Law has to be modernized to reflect the transparency elements and to ensure a thorough information of the public about the people who determine the editorial policy and to limit the excessive concentration of the press in the hands of some people etc., in line with the standards of the Council of Europe.

The Law on Advertising establishes the general principles for the advertising activity in the Republic of Moldova and regulates the relations that develop during the advertisement production, publication and dissemination.

According to Article 5 of this law, the function of advertisement provider, producer and disseminator may be carried out by “*individuals and legal entities, irrespective of the type of ownership and legal form of organization*”, i.e. including the Government authorities and companies that manage public money.

Article 14 establishes the threshold for the advertisement dissemination in the periodic press: “*The advertisement in periodicals funded from the state budget, other than those specialized in the advertisement information and materials, shall not exceed 30% of the volume of an issue.*”

The enforcement of this law generates a number of problems related to the funding of the press by the Government due to the lack of express provisions on the use of public money for public and social advertisement (Article 21) on the basis of objective, unbiased and nondiscriminatory criteria. The absence of a clear provision regulating special proce-

dures of advertisement procurement by public authorities poses the risk of potential abuses, intentional or unintentional, by the decision makers (IJC 2008:30).

The use of the public funds in mass media under the **Law on Public Procurement** is not sufficiently transparent, especially in terms of expenditure for advertisement, assistance and subscription. This leads to the application of subjective, discriminatory and inefficient criteria when distributing the public money for mass media, giving an unfair advantage to some media outlets in relation to others, affecting the loyal competition on the media market and stimulating corruption.

Detailed information on this subject was provided in the Final Report of the Independent Journalism Center, produced as part of the “Relations between the Press and State Authorities - towards Transparency and Accountability” Project¹⁷.

It is necessary to amend the Law on Public Procurement so as to establish legal guarantees for transparent and conscious use of the public funds as part of public procurement in mass media and to ensure other aspects of the advertisement and transparency of public procurements in the mass-media sector.

1.4. Areas of Intervention

The first obvious solution is to introduce in the national legal framework provisions aimed at ensuring the transparency and free access to information on the mass media properties, including to information on the circulation and mass media holding

¹⁷ The report may be accessed at: http://ijc.md/Publicatii/pre-sa_stat_raport_final.pdf

structures existent in Moldova. It is also necessary to develop an efficient mechanism that would ensure the publication of information about the source and amount of donations, including the non-cash donations, and about the people that control and influence the editorial policy of the respective mass media outlet.

The population must have access to the basic data on the mass media (founders, funding sources, address) to form a clear opinion about the credibility of the information broadcast by it. The publication of these data on the radio/TV sector will ensure the transparency of data about the applicants for broadcasting licenses, broadcasting, including the data on the identity of people/organizations participating in the structure that will manage the service, about their nature and share in the capital of the respective structure. The information about all changes occurred along the way should also be published.

The same principles of transparency will be ensured in the press.

To ensure the transparency it is necessary to annul the provisions from the **Press Law** on the funding of the periodicals and press agencies that conflict with the principles stated here.

Some specialists say that it will be possible to improve the legal framework only when the Press Law is annulled. The arguments supporting this opinion come again from the experience of other countries, where the existence of a law on the press reveals rather the need for a maximal limitation of legal regulations in this area. In many countries there are self-regulatory bodies in the mass media

(Sweden, the United Kingdom), which confirms again that the efficiency of such bodies makes the special legislative acts useless, provided that all mass media recognize the Journalist's Code of Ethics and the self-regulatory boards (commissions) (Spinei V., 2003).

Another aspect of the activity of mass media institutions, perceived as problematic, is the lack of the provisions in the national legislation on the *Government support for periodicals*.

According to the recommendations of the Council of Europe, the member states could apply measures of direct or indirect financial support of the mass media to promote their pluralism and diversity and measures of assisting the mass media that run into financial difficulties¹⁸.

Therefore, an appropriate legal framework would contribute to the support and promotion by the Government of the economic development and editorial independence of periodicals, promotion of loyal competition by public authorities and institutions, combating of the public authorities' interferences that limit the competition in the written press.

Of course, these supporting measures will be taken on the basis of objective criteria under total transparency, with a control from the independent structures. The support methods will be reviewed regularly to avoid any inadvertent stimulation of the mass media concentration¹⁹. And as the existing legal framework does not ensure free competition on this market it is necessary to create a functional press market.

18 Annex to Recommendation No R (99) 1 of the Committee of Ministers to member states on measures to promote media pluralism. Chapter VI. Support measures for the media.

19 Idem.

In this context the Association of Independent Press submitted the Government the draft *Law on the Government Assistance for the Periodicals*²⁰, which provides for the establishment of a transparent mechanism for provision of the Government assistance on the basis of strict and objective criteria, applied equally to all publications, in line with the recommendations of the Council of Europe. Unfortunately, the Government showed a more than critical attitude and, on the basis of a notification²¹ approved through Government Decision No 829 of 10 September 2010, did not support this draft law, which had to be processed and finalized in line with the concepts of the Government.

To stimulate the development of the local mass media, including the social press, the Ministry of Justice has launched an initiative aimed at developing the draft *Concept Paper on the Development of the Media Market in the Republic of Moldova* and the Action Plan for its implementation, as well as the draft *Concept Paper on the Broadcasting Development in the Republic of Moldova*²². It remains to be seen to what extent these concept papers will contribute to qualitative changes, since we need practical actions with the financial coverage rather than concept papers.

The annual Budget Law also needs to be supplemented with provisions, through which the social press could benefit of subsidies to cover the distribution expenses. The amendment of the Tax Code and establishment of a preferential tax framework for press institu-

20 The draft text is available at: http://api.md/files/13-proiect_lege_ajutoare_de_stat.pdf.

21 The text of the notification is available at: <http://www.gov.md/public/files/resursevechi/docs/SED2010/8092010/Intr08.pdf>.

22 For details consult: <http://www.justice.gov.md/ro/pro-norm>.

tions would have a similar importance.

For instance, the Governments of Austria, France, Netherlands, Norway and Spain subsidize the newspapers that run into financial difficulties. Some subsidies are granted to radio stations and TV channels. Netherlands and Norway grant subsidies to the editorial offices of independent newspapers. Austria, France, Norway, Sweden, the USA offer indirect support for the publications, by covering the expenditures related to postal taxes.

An impetus for the national and local press reform was created by passing the *Law on Privatization of Periodicals* on 17 September, which favors the media pluralism and will ensure transparent relations between the authorities and media institutions. The law will be implemented over two years.

As for *the Law on Advertising*, it is necessary to supplement it with a new term, namely “public advertisement” - the advertisement procured with public money. Other amendments would refer to the regulation of the difference between the “commercial advertisement” and the “public advertisement”, which would provide for a series of obligations for the public sector, generated by the fact that the advertisement published by public authorities has not only philanthropic and social, but also other goals (for instance, employment announcements etc.).

At the same time, it is important to adjust the *Law on Public Procurement* to European standards, establishing obligations of ensuring public transparency for the entire period of the public procurement contracts in the press sector, including the obligation of the involved contracting authorities

to publish their reports on the procurement procedures in the respective sector on their own website, so as the information should be accessible for any citizen (IJC 2008:42).

We cannot ignore a more recent problem encountered by the mass media. It refers to the introduction *of local fees for advertisement placement accounting for up to 5%* of the area where the advertisement is placed. The law that approved this change stirred lots of protests among mass media and specialized non-governmental organizations.

Further, we tried to describe the origin of the problem and how it can be solved.

The Local Fee for Advertisement Placement

The difficult situation the Republic of Moldova plunged into in late 2009 made the Government take prompt actions to recover the country's economy. A range of legislative initiatives were launched and approved within a record time, whose consequences are still felt today. The mass media suffers, as well.

Thus, Law No 108-XVIII of 17 December 2009, which introduced a series of amendments to the Tax Code of the Republic of Moldova, placed a hard burden on the media institutions.

The amendment introduced in Article 290 of Title VII, “Local Fees”, had a destructive effect. According to it, the radio stations, TV channels, internet portals, periodic press and printing houses became subjects of the local fee for advertisement accounting for of up to 5% of the total income from the surface allotted for advertisement.

This is how the respective provisions in the Annex to Title VII of the Tax Code reads now:

Tax name	The taxable base of the object of taxation	Maximum rate	Terms for the fee payment and fiscal reports filing by the subjects of taxation and authorized bodies
c) Fee for publicity placement (except for the one placed completely in the road protection area outside inhabited areas)	Proceeds from the sale of placement and/or distribution services for public announcements made on <i>TV, internet, radio, in periodic press, cinema, video</i> , by phone, telegraph, telex nets, by transportation means or other means, except for the placement of outdoors advertisement;	5%	Quarterly, until the last day of the month following the reporting quarter

One has the impression that to cover the budget deficit of late 2009, the lawmakers wanted to use all possible resources at any price. However, these initiatives were not supported by the needed economic rationale, although, before changing drastically an actor's fiscal status, its situation and the initiative-related risks should be considered thoroughly (for instance, the statistics and analytical data on the possible impact in the areas subject to changes). This is supported by the explanatory note to the draft law on the amendment and addenda to some legislative acts²³, which does not contain any argument for the need of such an amendment.

Until present, this provision was lacking from the national legislation and the introduction of the local fee for advertisement affects severely the financial position of independent mass media institutions, because advertising is one of the few sources of their income. The local independent newspapers are particularly exposed because in some regions, after the adoption of Law No 108-VIII of 17 December 2009, the local councils have already introduced this fee or intend to do this. These councils include Chisinau Municipal Council, Soroca Local Council, Rezina Lo-

cal Council, which established the maximum rate of 5% and, only as a matter of exception, Balti Municipal Council, which established the advertisement fee rate at 1%.

For instance, the Regulation on the Establishment of Local Fees in Soroca²⁴ provides the following: *"The advertisement fee is established at 5% of the proceeds from the sales of advertisement publishing services. The budgetary institutions shall be exempted from the advertisement fee."*

It is important to note that the introduction of this fee during the economic crisis affects severely the written press first, which has very small budgets as it is. The local advertisement fee is also irrational because the mass media does not use material and non-material resources for production.

According to some relevant studies, in 2009 the newspapers published by 35% fewer advertisements than in 2008 and in 2010 the situation keeps worsening. At the same time, the printing industry sees a decline by at least 20% in the output, which is indicative of the reduction in the circulation of periodicals in our country.

For comparison, at least 30 world countries do not have the advertisement fee at all,

²³ <http://old.parlament.md/lawprocess/laws/December2009/108-XVIII-17.12.09>.

²⁴ <http://www.primisoroca.md/pagini-0-40-0.html>

so the mass media institutions do not have to pay this tax.

Unlike the Republic of Moldova, in most European countries only a few local taxes and fees are applied, although one of them is usually more important. The United Kingdom, where only one fee, the property tax (though not in its classical form), is applied is an exception²⁵.

In this situation, after a chain reaction of the mass media institutions from the country, the Legislative had to recognize that the introduction of the fee for the mass media was a hasty action, but also a need stemming from the precarious situation of the budget and now, when the press hardly copes with the crisis, this burden should be removed²⁶.

Thus, on 24 April 2010 a legislative initiative on the amendment of the Tax Code was submitted to the Parliament. It was a draft law for the exemption of the mass media institutions in the Republic of Moldova from the local fee of 5% on the advertisement. According to the draft law, the mass media institutions from the country will be excluded from the category of subjects eligible for the local fee for advertisement. The text of the draft and the explanatory note were accessed on the official website of the Parliament (the old version)²⁷, under the “Current Draft Papers” section.

On 27 September 2010, the Government approved the draft law and submitted it for approval to the Parliament, which was dissolved the next day.

25 The Local Public Funds Management, M. Roscovan, page 136, http://www.habitatmoldova.org/publications/30/ro/Managementul_Finantelor_Publice_Locale.doc

26 Available at: <http://www.voceabasarabiei.net/index.php/stiri/politica/8206-audio-iniitativ-legislativ-mai-puine-taxe-pentru-presaindependent->

27 <http://old.parlament.md/lawprocess/drafts/>, draft No 1241 of 28 April 2010.

In these circumstances, once again mass media institutions are left to cope with difficulties on their own and this just for a while (!), till the legislative and executive powers are established in the Republic of Moldova.

1.4. Conclusions

With the adoption by the Council of Europe of the guidelines and recommendations on the public access to information about funding sources of radio stations, TV channels and written press, most European states did not hesitate to transpose these provisions in the national legislation.

Although these provisions do not have a direct effect in the national legal system, they represent a joint standard mutually accepted by the member states of the Council of Europe and the most important guide on the activity of media.

Logically, the Republic of Moldova should rank among the states that complied with the recommendations on the transparency of the mass media funding sources.

Unfortunately, we can witness an absolutely different situation in this respect, given that the national legislation on funding, sponsoring, subsidizing mass media by the Government contains lots of gaps and inaccuracies.

With some exceptions there are almost no provisions that would stipulate the publication of information on the structure of the company operating the media outlet, its owners and properties, stake and influence on the editorial policy of the media outlet, etc.

This situation was determined by the de-

cision makers' wrong approach to the principles of media institutions organization and activity. The application of old standards and ideas, coupled with the lack of political will in this area, pose a permanent threat to the fundamental rights and freedoms recognized in the Constitution.

That is why an immediate improvement of the situation is imminent, especially in the light of the commitments taken by the Republic of Moldova together with its status of a member in the Council of Europe.

The transposition of European standards in the national legislation on the mass media transparency will be an efficient tool for the achievement of this goal. This will not necessarily mean the adoption and direct insertion of these provisions, but rather the improve-

ment of the regulatory framework in force through the annulment of obsolete norms and addition of the new ones.

Clear and modern laws should be passed for the areas that are not regulated yet and appropriate enforcement mechanisms should be developed for the areas where the provisions do not work.

Given the lack of an agreement and will from the MPs, *media institutions* should be the promoters of their own interests and the civil society should stay on its guard and either support this process or resist it, if personal or group interests are found or the balance between the transparency and data protection, between the freedom of expression and respect for the private life, is broken.

CHAPTER II. “TELERADIO-MOLDOVA” PNBC: GOVERNMENT FUNDING OR FEES

On 24 April 2002, the Parliamentary Assembly of the Council of Europe, following ample debates on the social and political situation from the Republic of Moldova, approved Resolution 1280 on the functioning of democratic institutions in Moldova²⁸. Article 10 of the Resolution recommended the revision of radio and television legislation and amendment of the status of Teleradio Moldova to make it an independent public corporation. The Law on the Public National Broadcasting Company, passed by the Parliament during that summer, was annulled four years later, when passing the Broadcasting Code of the Republic of Moldova. On the other hand, the transformation and reorganization of Teleradio-Moldova Company (TRM) had a very slow pace.

Even at the concept level, a well-rounded view on the Company Statute was presented and approached only in 2006, when Christian Nissen and Boris Bergant, Council of Europe consultants, visited the Republic of Moldova. At that moment the funding mechanisms of the public broadcasting company were already the key subject of the organized debates.

Thus, the possibility to introduce a subscription fee for the public service broadcasting was perceived differently by the European

experts and the TRM management. The TRM representatives thought that the introduction of the subscription fee for the broadcasting outlets was not a solution for the Republic of Moldova and it “would not get roots” in our country. On the other hand, the international experts stated that this would allow a better activity of the Company and would exclude the possibility for the political parties to interfere in the TRM activity. This funding method could improve the independence of the company and ensure a higher responsibility towards consumers. *“Even in the Moldovan situation, every household could find 2-3 Euros per year in order to benefit of qualitative radio and television services”*, said Nissen.

Like in many European countries that introduced the practice of subscription fee, in Slovenia these fees, although expenses are needed for their collection, are not only a guarantee of independence, but also a predictable financial source. The funding from the state budget only, which also means public money in fact, exposes the public audiovisual institution to the risk of being strictly dependent on the political factor.

Though, all arguments of the Council of Europe experts were blocked at that moment by the reality and the social-economic situation of the country, which didn't allow the citizens paying an additional fee.

²⁸ Resolution no. 1280 on Functioning of Democratic Institutions in Moldova, PACE, 24 April, 2002; see http://assembly.coe.int/documents/adopted_texts/2002.

Another four years of discussions and expert reviews needed to pass for the views presented then by the international experts to get reflected in the paper called **Strategic Development Directions of “Teleradio-Moldova” PNBC for 2010-2015**.

To be sincere, the TRM management has changed since that time and it seems to be clearly committed to the European values and standards.

Could the Strategy have been approved earlier, so that in 2010 we would already have a truly modern public company? This question is still open for discussions, but the lost time cannot be recovered and we will analyze further what we have today.

2.1. Funding of Teleradio-Moldova Company NPBC from the Perspective of the Reform Strategy for 2010-2015

2010 can be regarded as a crucial year for the National Public Broadcasting Company of the Republic of Moldova. Since the Strategy of the Teleradio-Moldova Company for 2010-2015 was signed on 19 July²⁹, this institution started to be transformed into an institution at the service of the general public.

When implementing the Strategy, the TRM will be assisted by the European Broadcasting Union (EBU)³⁰. Claudio Cappon, the EBU Vice-President, said “The signing of this paper is an important step for the entire coun-

²⁹ Strategic Development Directions for 2010-2015, signed on 19 July 2010 and approved by the Council of Observers on 16 August 2010.

³⁰ The Republic of Moldova became a member of the European Broadcasting Union in 1992.

try in the alignment to the European values and standards”.

If a couple of years ago the TRM management was skeptical about the recommendations of international experts to reform the institution, currently these proposals are part of in the Strategy and are promoted by the TRM decision-makers.

As a result of the successful implementation of the proposed initiatives, the Public National Broadcasting Company should turn into a public radio and television broadcasting service, independent in its editing and creation, institutionally autonomous, which reflects the needs of all social categories, formed on the basis of exclusively or mainly public capital, whose development and functioning expenses would be supported by the entire society by direct funding (fees) and indirect funding (budgetary), whose broadcasting signal would have national coverage and whose activity would be supervised by the society in line with the law.

Thus, the Strategy offers a new concept of the national television and radio broadcasting company, focused on quality, diversity, and transparency. Since any initiative and change needs investments, the paper also foresees a financial mechanism to ensure the success of such a process.

These are the provisions of the Strategy with respect to this:

“It is possible that during the period specified in this strategic paper there will not be major allocations from the state budget. Consequently, discussions should be started and procedures should be identified with a view to change and diversify the TRM funding sources.

Consequently, there is no reason why in the Republic of Moldova the funding of the public

radio and television service, the single perspective model for the public broadcaster, couldn't be accomplished by means of a general mandatory fee. Thus there will be established a needed direct and interactive relationship between the user and provider of public services, which will have a positive impact on the quality of the public service. Out of the 58 public services members of the EBU, 50 radio and television companies adopted and follow this funding method. Many countries that haven't known earlier the citizens' direct contribution system, now successfully apply it, proving its feasibility, for instance Albania, Kosovo, Serbia, Macedonia, etc.

The transition to another funding method must be applied gradually, based on a professional study. For this not only the needed political consensus will be ensured (as well as the consensus on strengthening the democracy and independence of the main institutions of the rule of law), but also the new funding system will be promoted, including through of TRM programs, public discussions with the citizens."

Shortly, the funding system suggested in this Strategy provides for the partial transition from state budget allocations to general mandatory fees for the broadcast TV and radio programs, which means that the burden for the funding of the public broadcasting sector will be taken from the Government and moved to the taxpayers. Consequently, the citizens of the Republic of Moldova might have in their monthly bills a fixed fee aimed at supporting of the public broadcasting sector.

The logics of the presented funding model is obvious, especially in conditions of insufficient financial means allocated from the state budget. Nevertheless, since the Strategy is a policy paper that contains approximate direc-

tions for activities, this is not necessarily the variant that will be used. Even the authors recognize that the transition to the new funding method will take place gradually, provided that there is political consent and the population is ready for such an innovation.

These things are always confirmed and supported by TRM management in the discussions with mass-media. For instance, Constantin Marin, NPBC Director, mentioned at a press conference that *"only the funding model based on mandatory fees would ensure editorial independence and efficient managerial autonomy. Of course, this could be obtained as a result of a political decision in the Republic of Moldova."*

At the same time, Angela Sirbu, Director of TV Moldova 1, specified that before applying the fees, a survey would be conducted to see if the population agreed with the new funding method and in case of implementation – the tariffs would be symbolic.

Of course, the opponents of this idea will immediately point to the serious doubts regarding the availability of our citizens to support an additional fee, a fee that could face a bitter political resistance. In fact, there exists a counter-argument the opponents could re-address to the management of the public audiovisual – if they want to introduce a fee, it could be optional, at the choice of citizens.

But is this the greatest problem in the application of the new funding mechanism?

Maybe everybody should accept for a moment the idea and ask some more serious questions, such as "Does the new funding model imply a maximum transparency of how the taxpayers' money is spent?", "Will we benefit of more qualitative services after the implementation of this funding model?", "To what

extent the financial independence of the TRM will confirm its status of national broadcasting company at the service of the general public?”.

A thing is certain, this idea has been promoted during many years and earlier or later it had to be launched in the Republic of Moldova, particularly because TRM was fully dependent on the allocations from the state budget and the journalists' situation was worsening day by day.

2.1.1. Economic Preconditions

The idea to introduce the subscription fee as a principle of funding Teleradio-Moldova Company was launched back in 2000-2001, when they worked on the draft Law on NPBC. Though, the progressive principle at that moment, reported to the existing reality – the idea of subscription fee is not supported by the authorities, particularly because they didn't know a lot about this funding modality (Ribca E., 2010).

2006 came with another attempt, i.e. the development of the Broadcasting Code of the RM. But the Legislative didn't accept that idea, either. Hence, we can say that this was the moment when the introduction of the subscription fee seemed to be an unavoidable solution for the upcoming years.

The situation hasn't changed so far, when the inefficiency of the funding model and the shortage of financial resources imposed the need to reform the NPBC.

The figures show that currently the main source of NPBC funding (80%) represents means from the state budget, which don't cover all the needs of the Company. Usually, when

approving the budget for the next year, the figures of the previous year are taken into account. Thus, if in 2010 MDL 55 million was allocated for the NPBC functioning, the same amount (plus a budget adjustment of MDL 15 million) is stipulated for 2011³¹, while about MDL 140 million are needed for a proper functioning. The funding of the Company in 2010 was the lowest for the last 5 years, although PNBC has historical rescheduled debts for 2011 and 2012. Perhaps the problem consists in the economic state, but it is not excluded that sometimes the importance of this service is not understood properly; otherwise we cannot justify the practice of the Ministry of Finance of establishing some control figures, which usually coincide with the figures of the previous year, regardless if NPBC complies with the procedure of ToR submission and approval. (Marin C., 2010).

Nevertheless, a part of the guilt must be assumed by the TRM given that the architecture, technology³², organizational structure, functions, labor norms, and remuneration methods are outdated from several perspectives. For instance, the available facilities of the Company cannot be capitalized or transformed in income through leasing, because the potential clients are not interested (Marin C., 2010).

In this situation, either the Parliament must guarantee secure and proper funding of the Company needs (Article 64 of the Broadcasting Code of the RM), or it is necessary to diversify the funding methods of this public institution. One of the methods could be the implementation of subscription fees.

³¹ Approximately at the level of year 2007, when MDL 62 million was allotted.

³² The share of new technologies in TRM accounts for about 30-40%.

2.1.2. Subscription Fee – the Model of the Republic of Moldova

According to Article 64 of the Broadcasting Code of the Republic of Moldova³³, Teleradio-Moldova NPBC is funded by subsidies from the state budget, according to the Terms of Reference; donations and sponsorships for special projects; amounts obtained by granting the right to use and transfer property, including the broadcasting; profit obtained from organizing public events in line with the objective of the Company's activity; income obtained from advertising; and other funding sources whose legitimacy does not contradict the provisions of this Code and of other legal acts in force.

Nowadays, the NPBC funding mechanism calls for the development of the annual law on budget, which can be perceived like an intervention, interference or a possibility of interference of the Government. Hence, according to the Law on Budgetary System and Budgetary Process³⁴, the expenses on basic lines are covered by the Government at the proposal of the Ministry of Finance. That is why the establishment of a subscription fee is perceived as a mechanism that would ensure the financial and editorial independence of the national broadcasting service (Ribca E., 2010).

At the same time, the fact that a political decision should be made on the broadcasting fee, particularly on its adjustment to increasing costs or extended tasks, exposes the public service broadcasting to a potential political pressure. Because of this, efforts are needed to

improve the impartiality and transparency of the decision-making, which should include proper consultations with public broadcasting organizations (EBU, 2000:11).

Therefore, this mechanism should be viewed from the perspective of the existing financial reality in the Republic of Moldova and the decision on application should be made together with the entire society, which should be aware of its role in this process. Anyway, today the population funds indirectly the public broadcaster by the taxes it pays, which reach the budget and then are transferred for its funding (Ribca E., 2010). Only the Government often confuses the taxpayers' money with "its money" (Bunduchi I., 2010).

It is very important for the taxpayers to be aware that we mean just a change of approach and that in the absence of the subscription fee they are still funding the activity of the public service broadcasting. Ultimately, today without this fee or tomorrow with this fee, the funding of the public broadcaster is ensured by the population, the single difference being the possibility to ensure the direct control over the broadcaster and the strengthening of a stronger relationship between the broadcaster and the public for which it exists, even if the level of the fee is set by the Parliament or by other public institutions (Ribca E., 2010). A direct psychological relationship would increase the accountability both of the broadcaster and the citizens and in fact is a win-win solution.

According to some expert opinions, the introduction of the subscription fee for the public broadcaster's services is arguable both from the perspective of morality and efficiency. It is one thing when the public subsidizes the broadcaster by means of state and it's totally

33 The Broadcasting Code of the Republic of Moldova, no. 260 of 27 July 2006.

34 The Law on the Budgetary System and Budgetary Process, no. 847 of 24 May 1996.

different when the subscription fee is directly paid under the form of an additional fee besides the high taxes the taxpayers already pay and this means one more burden for the citizens (Ciurea C., 2010).

Of course, the population is very poor and if a subscription fee is also set, it is possible that the society will not understand it. Although, when the citizen pays directly, there is another degree of dependence, relationship, and responsibility between the broadcaster and the citizen. There could be some symbolic fees at the beginning for the consumer to get accustomed and further economically reasonable fees could be established (Marin C., 2010).

There are several models of fee form/type, two of them being the most popular in most of the countries with such a funding system: *the mandatory subscription fee* and *the royalty* for the possession of radio and TV devices. While the former assumes mandatory payments for the provision of public service broadcastings, the latter is applicable only in case of possession of reception devices (radio or TV sets) – model which is successfully applied in United Kingdom, Germany, Romania, Serbia, Denmark, Slovenia, etc. Given the fact that we don't have the financial reality of the United Kingdom, where the public service broadcasting has specialized vehicles for the detection of reception devices in every house, we should study the best practices and identify which are suitable for the reality of the Republic of Moldova (Ribca E., 2010).

We should mention here that the definition of reception device could need to be reviewed, taking into account the possibility to receive broadcasting services by means of computers and mobile phones (EBU, 2000:11).

If the public service broadcasting cannot set unilaterally the subscription fee, its amount or the criteria and procedures for establishing have often to be set by law. In some countries (France, Germany, United Kingdom), the Parliament determines the fee for a longer period (4-6 years) or for an unlimited period of time. In other cases the Government or the ministries do this (EBU, 2000:11).

In the case of the Republic of Moldova, the fees have to be established annually by the Parliament, usually when passing the Law on the State Budget and shall be indexed in line with the salary (minimum or average) and with the needs of the public radio broadcaster. As according to some surveys almost every household has radio devices and/or TV sets, the fee should be mandatory and reasonable (it could be MDL 5-10 per month at the beginning), so that it wouldn't be an excessive burden for consumers (Bunduchi I., 2010).

According to the origins of the broadcasting fee and taking into account that the income is not always used exclusively to finance the public service broadcasting, in some countries the income is not transferred directly to the public service broadcasting, but passes through the state budget or a special fund (EBU, 2000:13). In case of the Republic of Moldova, the fees can be transferred directly on the account of the Company, or they can be transferred on a special account of the Ministry of Finance with subsequent redistribution.

If in the future TRM is forbidden to place commercial advertising, this segment will remain for the commercial radio broadcasters only. In such conditions the commercial radio broadcasters will "reimburse" to the company a certain percentage, contributing to the forma-

tion of company's budget (Bunduchi I., 2010).

The methods of payment or fee collection vary a lot in different countries: the direct collection by broadcaster or by means of a third party authorized by it (for instance GEZ in Germany); collection by public authorities (particularly fiscal or media authorities); inclusion of the fee in the bill for electric power, phone or other utilities; inclusion of the fee in the cost of radio device and/or TV set; collection by third parties who were assigned this mission as a result of a public procurement procedure (EBU 2000:13). It seems that in the Republic of Moldova it would be acceptable to introduce the fee into the bill for electricity.

Indeed, the electricity distribution companies can be an efficient solution, particularly in the countries with a less developed administrative infrastructure. This solution can become more difficult in the future due to the liberalization of electricity markets. Any organization can handle the collection and for the efficient fulfillment of these duties, proper authorization and the access to the registries of the registration authorities must be ensured (if the fee is not collected by this authority, as it was usually done by the electricity and other utilities companies in monopolistic positions) (EBU 2000:13).

Generally there is no experience to be taken over entirely. Every country adjusts its policies depending on history, tradition, and mindset.

As mentioned in the Strategy, the gradual transition to the new funding method will be conditioned by the political consensus and population readiness for such an innovation. Nevertheless, it seems that we would rather need political will, because the population's opinion is already known (Bunduchi I., 2010).

Here, the political will means the approval of the Parliament and the Government, as this is a tax.

At the same time, a principled political decision cannot be discussed as long as there aren't any mechanisms. These mechanisms must be created until the political class takes principled decisions, in the context of the new Broadcasting Code, which is under development (Ribca E., 2010).

According to the new draft Code, developed with the assistance of national experts, representatives of the civil society and competent authorities, the biggest share of the public radio broadcaster will consist of taxpayers' direct contributions. Also, through consultations with the Ministry of Finance and with the consent of all decision-makers, the most functional mechanism for the implementation of the subscription fee will have to be decided (Bunduchi I., 2010).

If a decision is taken in this respect and the system proves to be functional, this can be regulated in the Code. Ideally, it would be very good to have a subscription fee and the public radio and television existed on the account of these direct "donations", which come from the citizens, and was very responsible towards citizens (Ciurea C., 2010).

According to some opinions, it is much more important at this stage to popularize among people the mission of the public broadcaster and the subscription fee for its proper functioning, idea rejected so far.

They have to make the public understand that the media products provided by the public radio broadcaster are different from the products of the commercial broadcasters. Well, by definition, the mission of the public

radio broadcaster is to broadcast educational programs, programs for social minorities (for ethnic minorities, for different age groups), associated to the democratic, social, and cultural needs of every society, while the aim of a commercial radio broadcaster is to cover the general obligations stipulated in the concept used to get the license (Ribca E., 2010). For this purpose, the commercial radio broadcasters' interests lead to the typical "deformation" of the program schedule, priority being given to the popular or relatively cheap programs, avoiding difficult, controversial or trial programs, and neglecting the interests of certain age groups or minorities (EBU, 2000:4).

Surely, many programs of the public service don't have a high rating, subsequently they don't bring money. What does a program for children or elderly people mean – social categories that do not necessarily have access to financial resources – in comparison with talk-shows for youth – a social category that affords spending more and more money? (Ribca E., 2010).

That's why the first step would be to inform and persuade the population about the need for these fees and public radio broadcaster's products.

2.1.3. Problems and Risks

Any reform is accompanied by some problems and risks related to its implementation or application, not to mention the initiatives that require financial means or introduction of charges.

The TRM initiative is not an exception. In case of the subscription fee we can even talk about categories of problems.

One category refers to the resistance shown by the political environment during the consideration and approval of a new fee as a legal obligation. It is a real "pain in the neck" for politicians, because, in the absence of indirect subsidizing of the public radio broadcaster, they will be almost deprived of the possibility to influence the company and if they also lose this instrument, as in case of BBC, it will be even more difficult to control the editorial policy of the company (Ciurea C., 2010).

Secondly, the resistance of the population should be also taken into account. Even according to the most optimistic scenario, in the situation when the society is aware about the need for public funding of TRM, the population will anyway resist a new tax (Ribca E., 2010). Obviously, in the whole world the population is against additional fees, but in the Republic of Moldova the practice of paying for the wire broadcasting is well known, even today some fees are paid for the collective antenna, regardless if it is used or not (Bunduchi I., 2010).

Regarding risks, even if the development of some clear and efficient mechanisms will be covered by legal regulations, there will still exist instrumental risks. At the first stage the population will still resist the payment of these fees, fact that generated a series of questions:

- ***Who collects the fees?*** – it is the obligation of the state to check the collection of fees or they choose for the fee to be collected by the public service, and then the following question is justified,

- ***Does the Company has mechanisms for forced collection of these fees?*** – at the beginning these fees could be collected by the Government authorities, and then we have the following risk,

- *Will the legislation really force the public authorities to redirect these fees to the NPBC?*

- *Who will set the quantum?* – surely the legislative authorities and thus we have again the involvement of the political factor.

An intermediary conclusion is that the establishment of this mechanism will not solve all problems, because the Parliament will have to review periodically these fees and then we will remain with the risk of TRM dependence on the political factor (Ribca E., 2010).

The introduction of subscription fee places the public television in market conditions and imposes the principles and rules applicable to the open competition, otherwise there will exist the risk of product uncompetitiveness and loss of audience (Ciurea C., 2010).

The political instability also bears a major danger and the endless elections will slow down even more the implementation of this model of funding and will affect the moral status of the citizens (Bunduchi I., 2010). Well, the “time” factor will be the determining element in this process.

An inefficient provision in the Broadcasting Code of the RM could endanger the editorial and financial independence of the NPBC. In fact, in case of a low rate of subscription fee payment, which is very likely in a country like the Republic of Moldova with its economic problems, political instability, high unemployment, low salaries and pensions and with arrears, the Government will have to look for alternative funding sources. In reality, this alternative will be the funding from the state budget, which will be insufficient as usually.

There can be more risks, but the approval of the fee itself as a principle must bring ben-

efits, for the public to understand ultimately that it is the one who funds the public service and has the right to request quality and diversity of programs and coverage of its interests as a member of the majority or minority groups. Even if the implementation of this mechanism will be accompanied by deficiencies, we will obtain at least one benefit – a connection between the results of company’s activity and interests of the general public, which must be aware that these programs are made for them and on account of their money (Ribca E., 2010).

2.1.4. Perspectives

With all problems identified, an idea can be promoted only by persuasion, courage, and acumen, which TRM management, state authorities, and citizens have to display. At the same time, the idea has to be justified, some credible arguments being needed (Ciurea C., 2010).

The first step towards the set objective would be the establishment of legal mechanisms by which the subscription fee would be established, not only in the current or future Broadcasting Code, but also in Tax Code, Government decisions, and acts of the Ministry of Finance, which will come with details on implementation.

The second step is the public examination and discussion of the mechanism for the formation of a clear view both at level of experts and of Government representatives. At this stage they will work a lot with the public and maybe even a social campaign will be launched to promote the idea. According to the statement of the TRM president, *“the public will be informed*

by means of various programs, campaigns, meetings with radio listeners. Maybe it would be better to wait half of the year or more, but to manage to discuss this issue with the society”.

During the third stage, the mechanism will be examined and approved at the level of principles.

The fourth stage will be accompanied by the creation of additional regulatory means to ensure the efficiency of this mechanism.

Finally, the fifth stage will request ongoing promotion at the social level of the subscription fee and the establishment of a connection between the Terms of References and the mechanism of fee collection, as well as between the fee paid by the citizen and quality of products will signal the successful promotion of the reform (Ribca E., 2010).

In the current situation (year 2010) we will wait for the Parliament to be created, after that we will come with initiatives to debate in public what we have developed. We will try to convince that the Republic of Moldova deserves a public service that functions according to the internationally recognized principles (Bunduchi I., 2010).

2.2. Funding of the public service broadcasting in the European Countries

In about 75% of the European countries the TV fees paid by the population account for the largest share of the budget of the public service broadcasting. The amount of the monthly fee varies significantly from a country to another, from about EUR 1.75 (Portugal) to EUR 26 in Switzerland (for details regarding

the amount of TV fee in some European countries see **Table 1**).

The share of funding from TV fees accounts on the average for 60% of the total income of the public broadcasters, followed by the income from advertising and sponsorships – 21%, funding from the state budget – 7% and other categories of income from sale of programs, placement of products, etc. – 13% (EBU, 2009:5). **Table 2** shows the EBU member states classified by main sources of funding for the public service broadcasting.

But there are many countries where the citizens had never paid TV fees, for instance: Andorra, Estonia, Liechtenstein, Luxemburg, and Monaco. There are also countries where the TV fees were abolished – Belgium (Flanders), Cyprus, Portugal, Spain (Gagiú C., Neacsu C., 2010). In Netherlands the Parliament decided to replace the traditional broadcasting fee by a special contribution, as a supplement to the income tax (EBU, 2000:10).

The positive experience was also confirmed by the experts who visited the Republic of Moldova a number of times. Thus, in the expert review of 2007³⁵, Dr. Katrin Nyman-Metcalf specified that “most European public broadcasters are partially funded by the subscription payments”.

As a result of the liberalization of the broadcasting sector and emergence of commercial media, the public service broadcasting from many European countries faced financial and organizational problems, which in turn generated a deep crisis of the technological production, decline of audience, and erosion of their media identity.

³⁵ Expert review of Teleradio-Moldova National Public Broadcasting Company, performed by Dr. Katrin Nyman-Metcalf in July 2007.

Because of the political pressures and interventions of the regulatory authorities, many states introduced major changes in the funding models of the public service broadcasting. Currently an increasing dependence of the broadcasters on the state budget funding is noticed and there is a trend to eliminate the funding system based on subscription fees (EBU, 2009:23).

Unlike the commercial broadcasters, who are exclusively funded from advertising, the funding model of the public service broadcasting must be well organized in order to ensure the efficient funding from public and independent sources. Such a funding is a precondition for the institutional and editorial independence of the public service broadcasting from the State, political parties, and commercial interests. Respectively, the independent and public sources usually involve funds collected from subscription fees or taxes paid by individuals or legal entities from the country.

2.2.1. Regulatory Aspects

Importance of the funding framework to fulfill the mission of the public service broadcasting was recognized at European level, in a number of policy papers and legal texts.

The first comprehensive pan-European paper on the public service broadcasting was the *Prague Resolution of 1994 on the Future public service broadcasting*³⁶. This was reaffirmed several times and it is still a valid basis. The paper emphasizes the need to establish and maintain a proper funding framework,

which would guarantee the needed means to achieve the aim of the public service broadcasting. In this regard, the variety of funding sources is well known, including broadcasting fees, public subsidies, income from advertising and sponsorship, benefits from the sale of audiovisual products, etc. (EBU, 2000:6).

*Recommendation Rec(96)10 of the Council of Europe on the guarantee of the independence of public service broadcasting*³⁷ stipulates that the member states of the Council of Europe assume the commitment to maintain and, if needed, to establish a secure and transparent funding framework, which guarantees to the public service broadcasting bodies the needed means for the fulfillment of their mission, as well as that the public service broadcasting should be consulted with respect to the amount of the contribution or royalty, taking into account of the development of activity costs.

Moreover, the payment of the contribution or royalty must be performed in a way that would guarantee the continuity of the respective public service broadcasting activity and would allow long-term planning of activities.

*Declaration of the CoE Committee of Ministers on the guarantee of the independence of public service broadcasting*³⁸ of 27 September 2006 reaffirms the same principles stated in the Recommendation, emphasizing that the member states are liable to ensure all legal, political, technical and other types of measures in order to guarantee the editorial independence and institutional

36 Available at <http://www.hkhrm.org.hk/PSB/08.%20Resolution%20No%201.%20%5Bcouncil%20of%20europe%5D.pdf>.

37 Available at: <http://www.acces-info.org.md/upload/Rec>.

38 Available at <https://wcd.coe.int/ViewDoc.jsp?Ref=Decl-27.09.2006&Sector=secCM&Language=lanEnglish&Ver=original&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

autonomy of the public service broadcasting, to eliminate every risk of economic and political influence. Moreover, ***Recommendation Rec(2007)3 of the CoE Committee of Ministers to member states on the remit of public service media in the information society***³⁹, also highlights that the member states shall ensure a secure and proper funding of the public service broadcasting, in order to allow them accomplishing their mission in an information society.

According to a paper developed by the Legal Department of the European Broadcasting Union (EBU) in November 2006⁴⁰, the receiving license fee is the basic method of financing public service broadcasting in virtually all countries in Western Europe (with Spain and the Netherlands being the major exceptions). In most countries, the revenues from the license fee is complemented by revenues from other sources, and especially advertising and sponsorship only as additional funding sources, which are going to be invested in the performance of its functions.

Moreover, the EBU paper emphasizes that “...*the amount* of the license fee should not correspond to what politicians regard as being more or less acceptable to their electorate, and definitely not to what they regard as not doing harm to commercial broadcasters”. Rather, as has been emphasized in so many formal Council of Europe, but also European Commission, Resolutions and Declarations, it must be ensured that the overall revenue of public broadcasters constitutes “an appro-

priate and secure funding framework which guarantees public service broadcasters the *means necessary to accomplish their mission*”.

The money actually needed to fulfill the public service mission, in all areas and in every respect, is therefore the starting-point for calculating the amount of the license fee.

The funding of public service broadcasting through license fee revenue (rather than annual allocations from the State budget) has a number of advantages:

- It is a major guarantee of the editorial independence of the public service broadcaster, who would otherwise have to rely on, and “buy”, the political good-will of those who decide the amount of the annual State budget allocation;
- The income is predictable over a number of years, which is an essential pre-condition for any medium-term and long-term planning and investment;
- Where there is license fee funding, the public service broadcaster will normally also have the right of self-administration;
- License fee funding establishes an important psychological link between the license fee payer, the citizen, and the public service broadcaster as the recipient of the money who is expected to spend it solely in the interests of the license fee payers (rather than, for instance, the Government or the parliamentary majority).

39 Available at <https://wcd.coe.int/ViewDoc.jsp?id=1089759&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>

40 Broadcast Receiving License Fee, European Broadcasting Union, Legal Department. Available at: http://www.ebu.ch/CMSimages/en/leg_p_broadcastreceiving%20licencefee_011106rev_tcm6-50157.pdf.

2.2.2. Macedonia

The Teleradio-Moldova Strategy for 2010-2015 makes reference to the Macedonian experience as an example of positive and successful experience. Further we will try to find out what it is.

The principles states in the European papers regarding the funding of the public service broadcasting were implemented in the new Law on Broadcasting Activity⁴¹, in force since December 2005. The main source of funding for the Broadcasting Institution of Macedonia (RTM) consists of subscription fees for the broadcasting services and the additional sources are revenues from advertising and sponsorships, sale of programs, etc. All operations of record keeping and organization of collection are performed by the RTM and the amount of payment for the broadcasting services, before the approval of last amendments and addenda to the Law (Official Gazette of RM, no. 158 of 19 August 2008), was determined as a percentage from the average salary. This model ensures an independent funding source of the public service broadcasting as a precondition and guarantee of its editorial independence and the fact that RTM manages on its own the collection of payments ensures the predictability and efficient long-term planning of income (Trpevska S. et al., 2010).

The most important difference with the old Law on Broadcasting Activity is that the basis for the establishment of the mandatory subscription fee is not the possession of radio or TV sets any more. The fees have the status

of a public fee, which shall be paid by everybody, regardless if they listen or watch RTM programs. In the EBU opinion, this funding model is more adequate for the importance of the public service broadcasting for the whole society with reference to the satisfaction of cultural, social, and democratic needs. The subscription fees allow producing programs oriented towards all citizens, including those that don't use the service for a certain period of time. Thus, the existing funding model assumes that the subscription fee is public and should be paid by everybody: households, organizations, hotels and motels, owners of catering facilities, etc. (Articles 145 and 146 from the Law).

Respectively, the funding model of the public service broadcasting, as specified in the Law, complies with the model recommended by the European papers and principles of the European Broadcasting Union. However, this model didn't start to work immediately after the new Law entered into force, which let the RTM to a very difficult financial situation and made it depend on the budgetary appropriations. The current staff in the RTM management, since October 2009, made efforts to increase the share of collection, but it seems that they still have many problems: the register is not fully updated, many citizens refuse to pay the bills retroactively, some citizens refuse to pay the fee at all, the bills are distributed improperly, etc.⁴²

In line with the amendments introduced to the Law on the Broadcasting Activity in August 2008⁴³, the amount of the fee was lowered to MKD 130 (about EUR 2.14) per month.

41 Law on the Broadcasting Activity, 2005, available at http://www.minoritycentre.org/sites/default/files/law_broadcasting_activity_mac.pdf.

42 Neither the Broadcasting Council, nor MRT could provide analyses or data on the share of collected taxes. The presented data were obtained during interviews with MRT staff.

43 "Official Gazette of RM", No.103 of 19 August 2008.

Although the amount of the payment seems motivating enough in order to stimulate the citizens to pay the subscription fee, these payments are still very low to cover the needs of proper functioning of the public service broadcasting, while the planning or development and computerization of RTM cannot even be considered⁴⁴. (Trpevska S. et al., 2010)

2.2.3. Slovenia

According to the 2007 census, Slovenia has about 750,000 households obliged to pay subscription fees for the public service broadcasting. The amount of the fee is EUR 11 per month and the annual income generated by the subscription fee payments is estimated to EUR 99 million.

Besides the subscription fee, which accounts for more than 70% of the public service broadcasting revenues, its budget consists of revenues generated by advertising and sponsorships.

A market survey in Slovenia showed that the total value of the TV advertising and sponsorship market for 2008 amounted to EUR 160 million, with the following distribution of the market between the two TV operators from the country (Case Study Slovenia, 2009):

TV channel	Service	Population	Market share
<i>RTV Slovenija</i>	Public	95%	73%
<i>Pro plus (Pop TV Kanal A)</i>	Commercial	85%	26%

44 During the debates regarding the decrease of the subscription fee, organized at the beginning of 2008, an opinion was that it was not analyzed enough if the amount of the contribution is sufficient to ensure the total funding of the public service broadcasting. See: „Utrinski vesnik“, of 23 February 2008, „The lower broadcasting fee passed the first filter“. Available at: <http://www.utrinski.com.mk/default.asp?ItemID=75F7EEFA5773B34DA5F1DDD7A5391D80>.

The Radio and Television Corporation Act of Slovenia⁴⁵ defines **the funding of the public service** and stipulates that RTV Slovenia public service broadcasting shall be funded from subscription fees for the public service broadcasting, state budget, economic propaganda services and economic activities, as well as other sources specified by law or contract.

Because of inconsistency of provisions on subscription fees, which led to the non-payment of this obligation, RTV Slovenia reported significant financial loss. Subsequently, according to a decision of the Constitutional Court, the Parliament passed a **Law Amending the Radio and Television Corporation Act of Slovenia** (RS Official Gazette, no. 88/89).

The Law foresees the obligation to pay the subscription fee for the programs provided by the RTV Slovenia. The fees shall be paid by all individuals and legal entities registered as consumers of electricity, except if they sign a statement on own account about the absence of radio and TV devices in their household. The aim of the amendments was to make the subscription fee compulsory almost for all owners and users of radio and TV devices, as well as the significant improvement of RTV Slovenia's financial situation (Urbas J., Setinc L., 2001).

45 Radio and Television Corporation Act of Slovenia, no. 96/2005, available at http://www.rtvsl.si/files/RTV_Slovenija/zrtvs_1.pdf

The Law also specifies the differences between the position and status of public and commercial broadcasting and here the most important difference relates to funding.

2.2.4. Serbia, Denmark, and Germany

In *Serbia*, the public service broadcasting is funded from license fees according to the provisions of *Article 81 of the Broadcasting Act*⁴⁶. The fee must be paid by every household that owns radio or TV devices and amounts to RSD 500 per month (about EUR 4.7). This amount is indexed. The obligation of payment is defined as follows: 1 household that has one electricity meter and at least 1 reception TV or radio set (COWI Consortium, 2010).

During the license fee collection, the public service broadcasting is obliged to redistribute the received means to RTV (the public broadcaster that covers only the Vojvodina province with 2 TV channels and 3 radio stations and which is funded exclusively through license fees, according to a fixed percentage).

The collection of fees from households is organized by 5 representatives of the energy distribution companies in line with the statistical regional structure of Serbia. In order to cover the collection expenses, these companies retain a part of the collected amount. The fees from enterprises are collected under the law by the public service broadcasting, which contains the respective information in its database (COWI Consortium, 2010).

⁴⁶ Broadcasting Law no. 42/02 of 19 July 2002, available at http://www.mc.rs/upload/pravo_doc/BRA%20ENG.pdf.

The amount generated by the collection of the license fees is mentioned explicitly in the annual reports of the public service broadcasting and RTV.

Nowadays the public service broadcasting complies with the EU standards in its mixed economy consisting of users' subscription fees and revenues from advertising, but collects only 49% of the revenues estimated to be collected from payment of license fees by users.

In *Denmark*, the Radio and Television Broadcasting Act no. 338 of 11 April 2007 foresees that every household that has the possibility to receive radio and TV programs by means of TV sets, computers or mobile phones is subject to a license fee, collected by the License Fee Office of the Danish Broadcasting Corporation. The amount of license fees is established by the Parliament for a 4-year period. Nowadays about 95% of households pay this license fees and there exists the trend to extend this figure to 99%. Once there has been considered the proposal to oblige to pay even the citizens who state that they don't access to media and request to be exempted from payment.

In *Germany*, the public service broadcasting is funded from several sources: TV fees, advertising (including sponsorships) and other revenues, as well as donations, rent, rental of buildings. The monthly payments cover a basic fee of about EUR 5.76 and an additional TV fee of EUR 12.22 for those who own a TV set. This represents a total annual value of EUR 215.76. The money is used to fund 11 public broadcasters and subsidize other broadcasters. (Gagiu C., Neacsu C., 2010).

The amount of contributions is calculated as follows:

(i) Every public broadcaster submits the budget of its needs and expenses for the production of programs, broadcasting, new digital channels, etc. on the basis of an extremely detailed concept;

(ii) An independent expert committee, called the Committee for the Assessment of Funding Needs, assesses the compliance of program concept with the obligations of a public service not involving in the editorial policy. The Committee reports to the Government once in two years on the changes in financial needs (Schulz W. Et al., 2008);

(iii) The Government determined the amount of contribution after the hearings where the broadcasters justify their budgets. The revenues from user fees are distributed according to a scale for public broadcasters, which have to comply with the public service standards, regardless of size and market share. Thus the revenues for small public broadcasters that cover only a certain territories can be insufficient to cover their expenses.

Although, the model of funding through subscription fees generated controversial discussions, given that the owners of computers with Internet connection were also regarded subjects of subscription fees. As well, the Federal Constitutional Court declared illegal the decision of federal states to maintain the amount of the fee under the level broadcasters' requests (Schulz W. et al., 2008). This year they started to discuss new models of funding of public broadcasters, one of the alternatives being that every citizen that has an income should pay the so-called media contribution or media fee. Another alternative

implies the introduction of a fee for every household, with a separate fee for those with a business facility – business household fee (Gagiu C., Neacsu C., 2010).

The legislation provides that the users' contribution shall be the primary source of broadcasters' funding. The aim of such requirement is ensuring the compliance of broadcasters' editorial policy with the public mission aims.

The invoicing and collection of subscription fees is accomplished by a public broadcasters association (Gebühreneinzugszentrale der öffentlich-rechtlichen Rundfunkanstalten - 'GEZ') with status of public authority, which acts on behalf of public broadcaster. The association has means to pay the invoices in conditions of public law and in compliance with the laws that regulate the implementation of administrative decisions. It retains a part of the collected license fees.

2.2.5. Bulgaria

According to the Radio and Television Law⁴⁷, the Bulgarian National Television (BNT) has three main funding sources: a special fund, subsidies from the state budget and revenues from advertising/sponsorship. It is supposed that the fund will consist mainly of monthly subscription fees, but unfortunately a payment collection system could not be implemented because of the absence of political will to implement such a plan. Thus, the BNT is funded nowadays from the state budget and, to a lesser extent, from advertising (Baeva G., 2008).

⁴⁷ Broadcasting Law, no. 138/24 of November 1998, available at <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN016248.pdf>.

The budget allocations represent almost 90% of the Bulgarian National Radio and over 50% of the BNT budget. According to the Radio and Television Law, both the radio service and the Bulgarian Television had to be funded from the collection of subscription fees for public service broadcasting – a form of subscription – paid by every household, as well as by private commercial entities that consume electricity (Article 93). These fees had to be the main source of revenues for the Radio and Television Fund, where from the public broadcasters and the National Council on Radio and Television had to be funded (Article 98).

The amount of the monthly subscription fee is very low – 0.6% of the minimum monthly salary (while the minimal salary amounts to about USD 35) for individuals and 2.5% of the legal entities' revenues. The Radio and Television Law sets a special scheme for the gradual transition of the Bulgarian radio and television from state appropriations to total public funding from subscription fees (Zlatev O., 2008).

Nevertheless, since the approval of the Law till nowadays no such mechanism for payment collection was established.

The reasons of this failure vary from economic ones till social and structural causes. The most important reason was and is the lack of political elite will to change the status-quo, because of the fear that the complete financial independence of BNR and BNT from the state budget would eliminate the possibility of political interference of the Government, which will result in complete editorial independence. This seems to be the single plausible explanation why the state still proves availability to

provide money from the state budget for the public broadcasting, while this amount could be freely covered by about 2,780 million households and 500,000 legal entities from Bulgaria (Zlatev O., 2008).

2.2.6. *Other Countries*

The new model of public service broadcasting (FTV) funding in *France* was established in March 2009, at the same time with the approval of the new Law on Audiovisual Communications and Public Television Service. According to the law, the new scheme of FTV funding includes revenues from TV fees (known as contributions to the public audiovisual sector), revenues from commercial activities and subsidies from the state budget for the compensation of public service expenses. The fee, which is paid through the residence fee, is based on the possession of a TV set, being paid annually and covers all family members living under one roof. Moreover, starting with the end of 2011 the broadcasting of advertising on the public television will be prohibited. This will coincide with the total transition from the analogical television to the digital one and will place the commercial broadcasters in a position of advertising semi-monopoly (EBU, 2009:28).

In *Slovakia*, the public service broadcasting is funded both from TV fees, state aid, revenues from broadcasting, and from subsidies. All individuals and all employers that have over three employees inclusively must pay broadcasting fees. The monthly TV fee is about EUR 4.77 and between EUR 4.77 and EUR 477.18 for employers, depending

on the number of employees. The state offers subsidies on the basis of the agreement between Slovenská Televízia (STV) and the Ministry of Culture on the content. On the basis of the agreement, the Government must provide EUR 61.4 million to STV in order to support the production and broadcasting of public interest programs (Gagiu C., Neacsu C., 2010).

There are no TV fees *in Spain* and since 1 September 2009 a new law on funding of the public service broadcasting entered into force and it provides for a “new” funding model for the public broadcaster Corporación de Radio y Televisión Española (RTVE). The new model involves funding from state subsidies and three different types of fees. The commercial free-to-air TV broadcasters must pay 3% of revenues, the pay-TV broadcasters – 1.5% and the electronic communications operators – 0.9% (EBU, 2009:24). Also, the new law prohibits placing advertising on RTVE, which is a dramatic change, because advertising is the most important funding source of RTVE (EBU, 2009:25). At the same time, the shortage of funds will be compensated from a public fund, consisting from both budgetary sources and fees for telecommunications services, and private broadcasters’ revenues from advertising.

In the *United Kingdom*, the public service broadcasting was funded mainly from TV fees, whose level is set by the Government and approved annually by the Parliament. In January 2007 the most recent agreement setting the fee was approved, for a 6-year period, respectively 2007-2012. Thus, during 1 April 2007- 31 March 2008 the annual value of the TV fee (for the colored variant)

was GBP 135.50 annually and increased up to GBP 139.50 in 2008, and GBP 142.50 in 2009. In 2010 the TV fee (for color receivers) is GBP 145.50, for 2011 it was set GBP 148.50, while for 2012 a maximum fee of GBP 151.50. The revenues of the BBC media trust from the collection of TV fees are used to fund TV, radio, online, as well as other services (Gagiu C., Neacsu C., 2010).

2.2.7. Romania

The Law no. 41 of 17 June 1994 on Organization and Functioning of the Romanian Radio Broadcasting Company and Romanian Television Corporation⁴⁸ provides that the financial sources of the RRBC and RTC shall be ensured from own revenues, other sources, as well from state budget appropriations (Article 43).

Article 44 of the same Law stipulates that “*the own revenues of the company come from broadcasting subscription fees, from sources according to the object of activity, as well as from donations or sponsorships.*”

The owners of radio and TV receivers are obliged to pay a subscription fee to the public service broadcasting. The level of subscription fees by categories of payers, the way of collection, as well as the deeds considered offense are established by a Government decision.

The Government Decision no. 977.2003 on the Fee for the Public service broadcasting⁴⁹ sets the obligation of individuals and legal entities with the residence, respectively office, in

48 Document available at http://www.cdep.ro/pls/legis/legis_pck.htm_act_text?id=14381

49 Available at http://www.cdep.ro/pls/legis/legis_pck.htm_act_text?id=50043

Romania to pay a monthly fee for the public service broadcasting. The monthly fee is paid by families. According to the same decision, there are exempted of this fee the people that state on their own account that they don't possess radio or TV receivers.

The greatest part of funding for the two media institutions (Romanian Radio Broadcasting Company and Romanian Television Corporation) is generated by the subscription fees collected from population. The households pay EUR 0.9 per month, while the legal entities pay EUR 4.5 per month. The level of these fees hasn't been updated since 2003 with the inflation rate. Maria Toghina, President-Director General of the RRBC, states that only 60% of the households from Romania pay this fee, the others being exempted. (Open Society Institute, 2008).

The current level of public service broadcasting is insufficient for the development of the two institutions and the public radio faced financial difficulties that endangered the daily functioning of the service.

According to the President-Director General of RTC, Alexandru Lazescu, it is possible to solve the situation only by an increase in the broadcasting fee, which is the lowest in Europe in his opinion. Lazescu said "The fee is the lowest in Europe. If in Romania it amounts to about RON 4 per month, then in the Czech Republic it is EUR 35 per year, in Hungary EUR 40 per year, and in UK almost EUR 185" (Gagiu C., Neacsu C., 2010).

The share of fee collection in TV revenues decreased from 74% in 2004 to 60% in 2006. At the same time, the expenses kept increasing year on year.

According to Article 5 of the Government

Decision no. 977/2003, the monthly fee for the public service broadcasting shall be collected from its payers by the Commercial Energy Distribution and Provision Company JSC Electrica by means of its subsidiaries, on the basis of a mandate contract, at the same time with the payment for the consumed electric energy.

For the fee collection from individuals and legal entities, the Commercial Energy Distribution and Provision Company JSC Electrica has the right to subtract the agreed commission, the rest of the amounts have to be transferred totally to the account of the Romanian Broadcasting Company in terms and conditions foreseen in the mandate contract (Article 10).

2.3. Conclusions

The choice of the financial mechanism is a core problem of the public service broadcasting. Besides the fact that sufficient financial *means* are needed to accomplish the mission of the public broadcaster, the *type* of funding is also relevant for the accomplishment of this mission.

On the funding problem every country takes a decision on the basis of the diversity of factors that ultimately determine the way to support the public service broadcasting: level of social-economic development, existing traditions, administrative-territorial structure, political will, and opinion of the society.

The model applied till now in the Republic of Moldova, where the Teleradio-Moldova NPBC is 80% funded from the state budget, proved repeatedly its inefficiency and this fact had negative consequences for the

quality of media products. So, if a broadcaster is based primarily on state funding, there exists the risk that the public authorities or political parties could use this “lever” to get influence over the editorial policy. Even with this interference, the broadcasting institutions are sometimes forced to “beg” funding from the decision-makers. Consequently, there emerges the temptation to “avoid” the negative information about them, eliminating the programs that criticize the Government.

On the other hand, the funding of the public broadcaster exclusively from advertising, sponsorships, and broadcasting fees is not the best solution either, since it generates a too big dependence on these means and the risks are huge in this case.

It became clear that at least in a competitive environment it won't be possible for a public broadcaster to accomplish its mission without public funding. This is proved by the problems faced by the public broadcasters since the introduction of commercial broadcasting, they being forced to rely mainly on revenues from advertising/sponsorships, particularly in countries with no tradition of license fee (for instance in Spain). There also exist countries (e.g. France) where efforts were made to increase the public funds in order to reduce the dependence on the advertising revenues and to strengthen the nature of the public service.

Since the broadcasting fee level has to be socially accepted, normally it is impossible to cover only from fees all financial needs for the accomplishment of the public service mission. This statement is particularly true in the case of small countries, countries with various linguistic and cultural regions,

other decentralized countries (federal states), and countries with a low per capita income (EBU, 2000:10).

The Republic of Moldova is also included in this category and the best solution for it, according to the number of analyzed experiences, will be to apply a mixed funding mechanism, which would ensure better the financial and editorial independence of the public service broadcasting. Thus, an essential element is missing from the funding system of Teleradio-Moldova NPBC in order to reach the balance: the financial means generated by the subscription fee.

The subscription fee (also called broadcasting fee or license fee) is often perceived as a *sui generis* means of funding, which suits best the role of the public broadcaster to service the entire society (EBU, 2000:5).

Nonetheless, this fee will not necessarily solve the problem of NPBC independence. There was found in the experience of some states the insufficiency of money coming from the subscription fee and keeping of the dependence on the political factor. So, we should preserve several sources of public broadcaster funding, including the subscription fee. The introduction of this fee does not mean abandonment of the other categories of sources like grants and budgetary funding (Ribca E., 2010).

Like any funding mechanism, the subscription fee has advantages and disadvantages.

The advantages are that the revenues from the broadcasting fee are stable and safe, predictable and less volatile than other funding means and reduce the dependence on revenues from advertising and state ap-

propriations; the broadcasting fee establishes an additional link between the public broadcasting institutions and consumers; in most states the public acceptance of the broadcasting fee is relatively high.

The disadvantages relate to the static character of the revenues (the number of households does not increase significantly), with a very low increase potential; the increases in the level of the broadcasting fee could be not popular and difficult to obtained at political level; the need to adjust periodically the fees can create a dependence on the public authorities if the proper procedures don't ensure an unbiased and independent decision making; the collection could be difficult to be performed, with a high evasion rate; the social and political acceptance of the broadcasting fees could decrease by the course of time (this fee could be perceived as an anachronism in the digital environment) (EBU, 2000:13).

Having said these, we just have to see when and in which terms the NPBC reform initiative would turn into reality, because, once being approved, the Strategy must be implemented and the goals must be achieved. Until then, the NPBC will have to deal with that it has and, moreover, to progress con-

stantly otherwise it risks staying isolated from the public service broadcasting from other countries.

Even in the absence of the subscription fee, the available financial means have to be used efficiently to ensure qualitative outputs.

During 2010, both the Council of Observers and NPBC management made efforts to ensure the quality and diversity of information. They intend to promote during 2011 the second mission of a public service – education, i.e. they will work to ensure the quality, diversity, and interest towards education programs. There will have to be created mechanisms by means of which they will ensure the quality of programs and the establishment of the subscription fee is going to facilitate this process (Ribca E., 2010).

The electoral campaign expected in November will be a huge challenge for the local public service broadcasting. At the same time it will be an opportunity for the television to prove that the accurate implementation of the Broadcasting Code of the RM, by means of an effective management, independently and upright, with the support of a competent Council of Observers, could be really at the service of the public that funds it.

RECOMMENDATIONS

To ensure a transparent activity of mass media and provide citizen with access to the public interest information there is necessary to:

- Pass a new *Broadcasting Code*.
- Amend the *Law on Press* in order to:
 - a) eliminate the prohibition of funding or any other type of support for periodicals from Governments of other countries (Article 12);
 - b) set other conditions, forms or procedures for the direct or indirect support of the press;
 - c) impose transparency requirements for the written press, according to the categories of information provided by the Recommendation Rec(94)13;
 - d) annul the provisions related to the funding of periodicals and press agencies that contradict the transparency principles.
- Supplement the *Law on Advertising* with
 - a) express provisions on the use of public money for public and social advertising (Article 21), on the basis of objective, impartial, and non-discriminatory criteria;
 - b) a new notion, namely public advertising – advertising purchased for public money;
 - c) regulation of the difference between commercial advertising and public advertising, providing a series of obligations for

the public sector.

- Amend the *Law on Public Procurement* in order to:
 - a) guarantee the access of the public to a series of information stipulated in:
 - confidentiality and impartiality agreements signed by the members of procurement working groups of the contracting authorities (within the public procurements of mass-media) – *Article 14(3)*;
 - papers that certify the qualification data of economic units (participant in mass-media public procurements) – *Article 16(1)*;
 - decisions on assignment of mass-media public procurement contracts – *Article 22(2)*;
 - information related to assigned mass-media public procurement contracts – *Article 22(3) of the Law*;
 - notification on the rejection of all offers within the mass-media public procurement – *Article 29*;
 - mass-media public procurement file – *Article 32(1)*;
 - documented information on the examination, assessment, and comparison of offers as part of mass-media public procurements – *Article 44(9)*;
 - report on the mass-media public procurement procedure – *Article 70 (1)*;
 - b) establish the express obligation to publish on the website of the Agency for Material

Reserves the copies of mass-media public procurement contracts and copies of the reports on the conduct of mass-media little value public procurements;

c) establish the obligation of all contracting authorities to develop, approve, and publish on the website of the Agency for Material Reserves the assessment report on the mass-media public procurement.

- Pass the ***Law on State Aid for the Periodical Publications*** that would regulate the state support and promotion of economic development and editorial independence of the periodical publications, of fair competition protection by public authorities and institutions, and of combating of the public administration authorities' activity limiting the competition in the area of the written press.

- Supplement the ***annual Budget Law*** with provisions by which the social importance press would benefit of subsidies to cover the distribution costs.

- Amend the ***Tax Code*** by:

- a) establishing a preferential fiscal framework for the press institutions;
- b) passing a draft law to exempt the mass-media institutions from the 5% local fee for placement of advertising.

- Introduce in the national legal framework provisions designated to ensure the transparency and free access to the information regarding mass-media property, including information about press circulation and mass-media holding structures existing in the Republic of Moldova.

- Develop an efficient mechanism that

would ensure the publication of information regarding the source and value of donations, including the non-financial ones, as well as regarding the people that hold and influence the editorial policy of the respective mass-media.

- Develop, by the Broadcasting Coordination Council, guidance that would explain in details what should be included in the data about owners and funding sources referred to in Articles 7 and 23 of the Broadcasting Code of the Republic of Moldova.

Exclude the state (Government representatives) interference in the editorial policy of Teleradio-Moldova NPBC and ensure the true financial independence of the Company by:

- Developing and approving budgets for periods that are longer than the Government term.

- Introducing the subscription fee for the public service broadcasting.

- Obliging the Observers' Council to submit accounts in every six months not only to the Parliament, but also during some special public events.

- Drafting periodical reports on management of funds, so that the public that pays taxes would know what happens and what the public service broadcasting does, which are the long and short-term goals, standards and norms of conduct, successes and challenges, including the attempts of political factors' interference in the editorial policy.

- Debating publicly the Terms of Reference of Teleradio-Moldova NPBC.

ANNEXES

Table 1: TV fees valid for 2010

State	TV fee/month	Minimum salary/month
Romania	EUR 0.9	EUR 141
Czech Republic	EUR 3	EUR 309
Slovakia	EUR 4.77	EUR 307
France	EUR 10.08	EUR 1 343
United Kingdom	GBP 12.25	EUR 1 076
Germany	17.98	It is practiced only in some sectors of the national economy, like constructions or post
Finland	EUR 19.25	It is practiced only in some sectors of the national economy
Switzerland	EUR 29	EUR 2 800
Netherlands	Not charged	EUR 1 407
Spain	Not charged	EUR 739

*Source: Financiarul.com.*⁵⁰

Table 2: Main funding sources of public broadcasters in EBU member states (2008)

Funding source TV FEE			Funding source STATE BUDGET		
State	Broadcaster	Fee %	State	Broadcaster	Fee %
Sweden	SR	97.1 %	Vatican	Radio Vatican	100%
Norway	NRK	95.3 %	Russian Federation	Radio Voice of Russia	99.6 %
Finland	YLE	94.6 %	Bulgaria	BNR	94.9 %
Sweden	SVT	93.0 %	Estonia	ERR	91.8 %
Denmark	DR	91.0 %	Ukraine	NRCU	81.5 %
Czech Republic	CRo	87.2 %	Moldova	TRM	79.5 %
France	Radio France	85.7 %	Hungary	MTV	78.3 %
Germany	ZDF	84.3 %	Belgium (francophone community)	RTBF	72.4 %
Germany	ARD	83.6 %	Cyprus	CyBC	72.1 %
Slovakia	SRo	81.5 %	Latvia	LR	68.9 %
UK	BBC	75.9 %	Belgium (Flanders)	VRT	64.4%
Czech Republic	CT	73.9 %	Netherlands	NPO	63.6 %
Switzerland	SRG-SSR	71.4 %	Lithuania	LRT	58.9 %
France	France Televisions	70.7 %	Portugal	RTP	39.5 %
Slovakia	STV	69.3 %	Funding source ADVERTISING, etc.		
Croätia	HRT	68.8 %	State	Broadcaster	Fee %
Turkey	TRT	68.3 %	UK	Channel 4	87.2 %
Serbia	RTS	66.2 %	Finland	MTV3	79.8 %
Iceland	RUV	64.9 %	UK	ITV	70.2 %
Slovenia	RTV-SLO	64.8 %	Poland	TVP	55.9 %
Poland	PR	63.3 %	Spain	RTVE	49.9 %
Italy	RAI	54.8 %			
Austria	ORF	50.5 %			
Hungary	MR	46.5 %			
Ireland	RTE	45.6 %			

Source: EBU, on the basis of information received from member states

⁵⁰ http://www.financiarul.com/articol_51504/se-poate-si-fara-taxa-tv-in-olanda-spania-si-portugalia-aceasta-nu-exista-.html.

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NOTE

