



**Stakeholder Submission for the Universal Periodic Review
of the Republic of Moldova**
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Organizational Information: Founded in 1941, Freedom House is the oldest non-profit organization in the United States dedicated to promoting and defending democracy and freedom and has a successful record of conducting training programs, targeted assistance, advocacy, research, and monitoring to support democratic governance, human rights, civil society development, and independent media worldwide. Freedom House analyzes the challenges to freedom in its annual indices *Freedom in the World*, *Nations in Transit*, and *Freedom on the Net*; advocates for greater political rights and civil liberties in cooperation with local partners; and supports frontline activists to defend human rights. In Moldova, Freedom House works in close cooperation with local civil society and independent media organizations to advance fundamental freedoms including citizens' rights to free expression and information access. Freedom House has held ECOSOC status since 1995.

I. Introduction

1.1. This report is submitted by Freedom House to the office of the High Commissioner for Human Rights (OHCHR) to be considered for inclusion in the summary of stakeholder submissions for the Universal Periodic Review (UPR) of the Republic of Moldova, scheduled to take place in January 2022. It covers the period elapsed since Moldova's last UPR in 2016 and examines the existing legal framework and issues pertaining to access to information and media independence and pluralism as key concerns around Moldova's compliance with its international and national human rights commitments on free expression and media freedom. The submission focuses on the implementation of recommendations 121.132 (Peru), 121.138 (Bulgaria), 121.139 (Spain), 121.140 (Sweden), 121.141 (Austria), 121.142 (France), 121.143 (Germany), 121.144 (Ireland) and 122.38 (Norway) that were accepted by the Republic of Moldova in 2016.

II. Executive Summary

2.1. Access to information and media independence and pluralism remain vitally important media freedom issues in the Republic of Moldova. Despite repeated calls for media reform, the government of Moldova has not made significant efforts to improve access to information and ensure media diversity. State bodies' compliance with national laws regulating media remains weak, and internal contradictions and conflicts between different pieces of legislation often allow state institutions to ignore the regulations altogether. Public officials consistently obstruct access to public interest information with impunity, or provide privileged access to preferred media outlets. Independent journalists experience intense legal pressure and other forms of intimidation and harassment as a result of their work. Finally, the existing legal provisions do not effectively regulate concentration of media ownership, and private media remain financially and editorially dependent on affiliated businesses and political groups. The government of Moldova should adopt a number of legislative and procedural changes to improve the operating environment for independent media and free access to information in the country, ensuring consistent enforcement in accordance with its international obligations.

III. Methodology

3.1. This submission is directly informed by ongoing programming conducted by Freedom House and local partners in the Republic of Moldova, as well as by extensive consultations led by Freedom House with local representatives of civil society and independent media, including the Center for Investigative Journalism of Moldova (CIJM), *Ziarul de Garda* and Lawyers for Human Rights (LHR). It also references reports and publications by various Moldovan civil society and independent media organizations.

IV. Legal Framework

4.1. The Moldovan Constitution guarantees freedom of expression (Article 32) as does the Law on Freedom of Expression (2010). Censorship is prohibited by the Constitution, the Law on Press (1994), the Audiovisual Media Services Code (2019) and the Law on Freedom of Expression. The right to access information is guaranteed by the Moldovan Constitution (Article 34) and is regulated by the Law on Access to Information (2000), which only restricts public access to state secrets, business information submitted to public institutions under conditions of confidentiality, and personal data.

4.2. Despite these formal legal safeguards, enforcement of and compliance with these laws remains weak, as no state body has the full authority to enforce implementation. The Moldovan Ombudsman has the authority to oversee the implementation of the Law on Access to Information; however, this office lacks the capacity and the resources to exercise control.

4.3. Until 2017, efforts by civil society organizations to encourage improvements in Moldovan media legislation and policy were not taken into account by Parliament or government. In 2017-18, Parliament facilitated a working group in cooperation with the Council of Europe, Freedom House, Internews, and Moldovan civil society, with the goal of improving the legal and regulatory environment for media. As a result of those efforts, a number of key laws incorporating input from civil society and international actors, including the Audiovisual Media Services Code, were adopted by Parliament and entered into force in 2019.ⁱ

4.4. While these changes were an important first step in addressing longstanding challenges facing media freedom in Moldova, the working group identified several laws that remain in urgent need of amendment – namely, the Law on Freedom of Expression, the Law on Advertising, the Law on Personal Data Protection and the Law on Access to Information. In December 2020, Parliament registered a legislative package addressing some of the most pressing media reform needs that was submitted by a joint civil society initiative including Freedom House, the Association for Independent Press, and the Independent Journalism Center.ⁱⁱ However, the legislative package was not passed before the Parliament's dissolution in April 2021; in order to be adopted, the draft laws must be re-registered in the new Parliament that will form following snap elections scheduled for July 2021.

V. Pressure and Intimidation of Independent Journalists

5.1. Poor implementation and enforcement of journalists' rights under the existing legal framework has created a serious chilling effect for independent media that practically manifests in a widespread culture of self-censorship. In 2020, civil society organizations reported a sharp uptick in extra-legal intimidation of journalists who attempt to cover politicized issues such as corruption, including physical harassment.ⁱⁱⁱ These illegal acts are rarely investigated by authorities.

5.2. In addition, journalists who report on corruption and integrity issues are regularly subjected to legal pressure in the form of defamation lawsuits put forward by the subjects of their investigations.^{iv} In one high-profile example, *Ziarul de Garda* was targeted in a defamation lawsuit in May 2020 by then-President Dodon, which is still pending in the court system. The threat of lawsuits – particularly from high-level political figures such as Dodon – has a serious chilling impact on freedom of speech, as legal battles are often time-consuming and costly.

5.3. Although the Law on Freedom of Expression guarantees media the right not to disclose sources of information, journalists have been increasingly pressured to renounce this right during the reporting period.^v Among the forms of illegal intimidation that took place, journalists from CIJM and *Ziarul de Garda* were questioned by police on numerous occasions and pressured to provide witness testimony on their sources in relation to ongoing civil and criminal proceedings.

VI. Access to Information

6.1. Restriction of access to information continues to be one of the most pressing issues confronting media freedoms in Moldova. This is due to systemic deficiencies in outdated national legislation and bureaucratic systems, as well as to obstructionist behavior by authorities who restrict access to information of public interest by supplying incomplete or confusing information, imposing prohibitive fees for access, and/or abusively invoking privacy and data protection laws.^{vi}

6.2. Legal shortcomings and poor enforcement of the current Law on Access to Information are particularly important, and continue to negatively impact journalists' ability to bring objective information to the public. In addition to extra-legal intimidation of journalists (Section V), access to information is further undermined by legal protections for the privacy of state officials enshrined in the Law on Personal Data Protection, which are often invoked to refuse the release of legitimate public interest information. Since 2017, LHR carried out strategic litigation efforts at national and international levels targeting state institutions, state-held enterprises, and joint stock companies that violated access to information provisions, achieving 40 favorable court rulings, including from the Supreme Court of Justice. This work represents an important new body of case law and legal precedents that uphold citizens' information access over the state's attempts to deny this access.

6.3. In 2020, Moldovan courts inconsistently interpreted and applied laws related to information access, largely to the disadvantage of information applicants. The new Administrative Code (2019) created legal ambiguities regarding key protections for the right to access information, causing confusion for both information providers and information applicants.^{vii} Moreover, the judiciary has made contradictory rulings on violations of information access. For example, in June 2020 the Supreme Court upheld an appellate court ruling noting that the current Law on Access to Information was "obsolete" and "not applicable;" however, it reversed this decision and upheld the Law's legitimacy in October 2020.

6.4. One of the most common challenges to information access is the lengthy and bureaucratic process of obtaining information of public interest. Whenever there is a need to verify information or request a comment on subjects of public interest, journalists are required to submit a formal request to the authorities, after which they must wait for a period of up to 20 working days. When Moldova entered a state of emergency in March 2020 in response to the COVID-19 pandemic, the government immediately tripled the legal deadline for authorities to answer information requests based on claims of limited personnel capacity.^{viii} This extended deadline remained in effect until the end of the state of emergency in May 2021 and substantially limited the public's access to important, up-to-date information on the pandemic.

6.5. Since the start of the COVID-19 health crisis, Moldovan government officials have often chosen to restrict communication channels with the public, relying on press releases and selectively accepting interview requests with friendly media outlets. Consequently, independent media had very limited direct access to public officials or means to access information that diverged from official positions. In response to civil society advocacy the Ministry of Health agreed in May 2020 to hold weekly press conferences and thereby allow journalists to pose direct questions to decision makers.^{ix} However, the Ministry ceased holding these press conferences in September 2020, citing a high workload.

6.6. Those who obstruct access to information do so with impunity. A common strategy used by public bodies in responding to information requests is to share formal answers that provide no additional clarity or value.^x In addition, many officials do not share public interest information without prior approval from a supervisor and refuse to answer telephone calls from journalists. In the rare cases where public officials are held accountable for failing to provide information, the Contravention Code imposes only insignificant fines (up to 80 USD) on the responsible party.

6.7. Fees for public data continued to stymie investigative journalists' efforts to shed light on public interest issues.^{xi} The Law on Access to Information allows state institutions to charge fees to cover the real costs incurred when responding to requests for information. However, the Law's provisions are exceedingly general, leaving room for interpretation. Representative bodies or public institutions may independently determine fee amounts, which are often prohibitively expensive for media outlets. For example, a request in February 2018 by *Ziarul de Gardă* to the Public Services Agency to provide approximately six pages of information on the activity of certain economic agents resulted in approximately 50 USD in fees. Hundreds of such informational documents are often required by a journalist for a single in-depth corruption-related investigation.

6.8. Independent journalists and outlets are commonly denied access to public events and briefings held by state institutions based on their standing with the ruling party.^{xiii} For example, in 2018–19, journalists from the channels Jurnal TV and TV8 were denied access to public conferences and events organized by the then-ruling Democratic Party (PDM). As justification, PDM representatives stated that journalists from these channels were barred due in part to their failure to “present positive news.” The tactic of excluding unfavorable media outlets was also regularly used by other political parties and politicians, including former President Igor Dodon and his Socialist Party (PSRM). On several occasions, state security employees repeatedly intervened inappropriately to block independent journalists from questioning President Dodon at public events.^{xiii}

VII. Media Ownership Concentration and Pluralism

7.1. Concentration of media ownership is one of the main factors that continues to undermine media pluralism in Moldova. Although the Audiovisual Code restricts a single owner from holding more than two broadcast licenses, this legal norm has a negligible practical impact. The Competition Council has continually failed to adequately fulfill its mandate to prevent or address potentially dominant positions in the media market, and the anti-monopoly provisions currently enshrined in national legislation are not effective or realistic.^{xiv} Attempts to pass a draft Law on Advertising to address important legal gaps have yet to bear fruit.

7.2. Civil society representatives also continue to call for the repeal of the 1994 Law on the Press, which contains restrictive provisions limiting media pluralism and is redundant of other legislation, including the Law on Freedom of Expression. The Law also limits foreign investment in print media and imposes burdensome registration requirements on non-governmental organizations seeking to publish a newspaper, hindering the development of new media initiatives.

7.3. Editorial independence of media outlets is a fundamental cornerstone of media pluralism; however, in Moldova this independence remains ambiguous and elusive. Although the

Audiovisual Code contains provisions aimed at strengthening the editorial independence of national public media providers, they are inadequately enforced by the Broadcasting Council, which has been heavily criticized by civil society and others as ineffective and itself vulnerable to external influences.^{xv}

7.4. During the reporting period, the consolidation of holding companies affiliated with former President Igor Dodon and other leading members of PSRM continued.^{xvi} Meanwhile, holding companies governed by politicians who are subjects of ongoing criminal investigations for corruption and other abuses continued to operate, including those of former PDM leader Plahotniuc and Shor Party leader Ilan Sor.

7.5. Inadequate enforcement of the Audiovisual Code by the Broadcasting Council also allowed illegal transmission of Russian audiovisual programs to continue with near impunity. Popular television broadcasters regularly rebroadcasted audiovisual programs transmitted from the Russian Federation throughout the reporting period.^{xvii} Russian TV stations continued to hold majority shares in several major cable operators in the country.^{xviii}

7.6. The passage of the Audiovisual Code in 2019 was a positive development for media pluralism. However, less than two years after the Code entered into force, it underwent a series of rushed amendments that are in violation of Moldova's commitments under the European Convention on Transfrontier Television. Among other concerning developments, the December 2020 amendments cancelled the earlier prohibition on rebroadcasting propagandistic audiovisual programs from foreign providers, including those from Russia. This step threatens to increase the dominance of Russian programs and providers in the Moldovan market, crowd out local independent media, and contribute to increased levels of disinformation – further eroding overall media pluralism and citizens' ability to access unbiased information.

VIII. Recommendations

8.1. Adopt a legal mechanism that would improve the functionality of the Law on Access to Information and facilitate improved access to public interest information, in accord with international obligations;

8.2. Re-initiate the efforts of the parliamentary working group on media legislation, focusing particular attention on the improvement, review, and passage of the Law on Freedom of Expression, the Law on Access to Information, the Law on Advertising, the Law on Personal Data Protection and the Law on the Press in close consultation with civil society;

8.3. Ensure the robust enforcement of the Audiovisual Code by the Competition Council and Broadcasting Council to facilitate greater media pluralism and editorial independence;

8.4. Ensure that journalists can do their work in offering the public objective information and the right to truth without intimidation or harassment, and that any violation of journalists' rights is fully investigated and persecuted by the relevant authorities;

8.5. Work proactively to share and publish information of public interest with the public and independent journalists, including by publishing such information to government websites, holding regular public press conferences, and improving the functionality of public databases;

8.6. In cases where restrictions of access to information must continue under pandemic conditions, provide clear, legitimate justifications, well-grounded in law, for each restriction. Emergency restrictions affecting basic rights, including freedoms of expression and information access, should be limited in duration, subject to independent oversight, and imposed and extended based only on transparent criteria. Individuals, including journalists, should have the opportunity to seek remedies and compensation for any unnecessary or disproportionate rights violations committed during the crisis.

ⁱ Zghibarta, L. (2020). *The Fourth Estate in the Making: Regulation and Reform of Media in Moldova* (No. 11; Media Forward). Freedom House. https://freedomhouse.org/sites/default/files/2020-04/Zghibarta_final_EN.pdf

ⁱⁱ *Proiecte de acte legislative*. (2020, July 12). Parlamentul Republicii Moldova.

<http://parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5354/language/ro-RO/Default.aspx>

ⁱⁱⁱ Атаки на медиаработников в 2020 году. ГРУППА 3: Армения, Грузия, Кыргызстан, Молдова, Украина. (2021, June 8). *Справедливость для журналистов*. <https://jfi.fund/ru/report-2020-3/>

See also: La CJI. (2018, June 27). *Media ngos condemn the restriction of zdg journalist access in the back of scj building* [Text]. Media Azi. <http://media-azi.md/en/stiri/media-ngos-condemn-restriction-zdg-journalist-access-back-scj-building-0>

^{iv} Gotisan, V., & Ionel, N. (2020). *Why Access to Information Is Still a Problem in Moldova* (No. 10; Media Forward). Freedom House. https://freedomhouse.org/sites/default/files/2020-03/Ionel_and_Gotizan_FINAL_EN.pdf

^v Атаки на медиаработников в 2020 году. ГРУППА 3: Армения, Грузия, Кыргызстан, Молдова, Украина. (2021, June 8). *Справедливость для журналистов*. <https://jfi.fund/ru/report-2020-3/>

^{vi} Gotisan, V., & Ionel, N. (2020). *Why Access to Information Is Still a Problem in Moldova* (No. 10; Media Forward). Freedom House. https://freedomhouse.org/sites/default/files/2020-03/Ionel_and_Gotizan_FINAL_EN.pdf

^{vii} Zghibarta, P. (2020). *Privacy and Freedom of Expression in Moldova: A Dangerous Imbalance for Journalists* (No. 13; Media Forward). Freedom House.

https://freedomhouse.org/sites/default/files/2020-11/Privacy_and_Freedom_of_Expression_ENG.pdf

^{viii} Balan, V., & Stegnyy, V. (2020). *COVID-19 Pandemic: Lessons for Media Freedom in Moldova* (No. 12; Media Forward). Freedom House. https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegnyy_FINAL-EN.pdf

^{ix} Nani, A., Buka, L., & Lentine, G. (2020). *Media Policy in a Pandemic: Lessons from Moldova, Ukraine and Latvia* (No. 14; Media Forward). Freedom House.

https://freedomhouse.org/sites/default/files/2020-11/Media_Policy_in_Pandemic_ENG.pdf

^x Gotisan, V., & Ionel, N. (2020). *Why Access to Information Is Still a Problem in Moldova* (No. 10; Media Forward). Freedom House. https://freedomhouse.org/sites/default/files/2020-03/Ionel_and_Gotizan_FINAL_EN.pdf

^{xi} Ibid.

^{xii} *Memorandum on the Freedom of the Press in the Republic of Moldova*. (n.d.). http://media-azi.md/sites/default/files/Memorandum_2020-2021.pdf

^{xiii} Ibid.

^{xiv} Ibid.

See also: Independent Journalism Center. (2021, February 15). *2020 Moldovan press status index* [Text]. Media Azi. <http://media-azi.md/en/2020-moldovan-press-status-index>

^{xv} *Activity report of audiovisual coordination council for 2018 rejected by Moldovan parliamentary commission*. (2019). MoldPres News Agency. <https://www.moldpres.md/en/news/2019/07/03/19005144>

^{xvi} *Memorandum on the Freedom of the Press in the Republic of Moldova*. (n.d.). http://media-azi.md/sites/default/files/Memorandum_2020-2021.pdf

^{xvii} *Memorandum on the Freedom of the Press in the Republic of Moldova*. (n.d.). http://media-azi.md/sites/default/files/Memorandum_2020-2021.pdf

^{xviii} Ibid.