



53 Sciusev Street, MD-2012  
Chisinau, Republic of Moldova  
Tel: (+373 22) 213652, 227539  
Fax: (+373 22) 226681  
Email: info@ijc.md

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## COUNCIL OF EUROPE

DGI Directorate General of Human Rights and Rule of Law  
Department for the Execution of Judgments of the ECtHR  
F-67075 Strasbourg Cedex  
FRANCE  
Email: [DGI-Execution@coe.int](mailto:DGI-Execution@coe.int)

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### COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers  
regarding the supervision of the execution of judgments and of terms of friendly settlements  
by Independent Journalism Center

### CASE OF MANOLE AND OTHERS v. MOLDOVA

(Application no. 13936/02)

1. This submission is the second<sup>1</sup> Rule 9.2 communication sent by the Independent Journalism Center regarding the implementation of the judgment in case of *Manole and others v. Moldova* (Application no. 13936/02) judgment of 17 September 2009 (merits), final as of 17 December 2009 judgment of 13 July 2010 (just satisfaction), final as of 13 October 2010. This case concerns undue interferences with the right of freedom of expression of journalists, editors and producers working at the state television company Teleradio-Moldova (TRM) on account of censorship and political control by the state authorities in the period 2001-2006. The ECtHR found a violation of Article 10 arising *inter alia* from insufficient statutory guarantees of independence for the public broadcaster.
2. The submission is prepared by Independent Journalism Center (IJC) – a media rights watchdog and advocacy organization founded in 1994. It formulates its mission in terms of democratic values contributing to protecting and promoting rights and freedoms of the independent media through research, monitoring, public advocacy, and education. Over the years, IJC has launched and implemented a number of projects to improve the legal framework for journalists and was one of the observers who contributed to the reports concerning alleged undue political influence at TRM in the case of *Manole and others v. Moldova*<sup>2</sup>.

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<sup>1</sup> First Communication by IJC, October 26, 2021, <https://rm.coe.int/native/0900001680a46ef8>;

<sup>2</sup> See paragraph 76 <http://hudoc.echr.coe.int/fre?i=001-94075>;

3. Since our last communication to the Committee of Ministers in October 2021, the Government of the Republic of Moldova submitted an Updated Action Plan<sup>3</sup> for the implementation of the judgment. The Action Plan outlines several developments and reiterates the Government's commitment to promote the necessary amendments to the legal framework.
4. The following paragraphs address the relevant sections of the general measures outlined in the Government's updated Action Plan, and present arguments, including monitoring data, revealing that the issues raised by the ECtHR in the case of *Manole and others v. Moldova* have not been properly addressed.

## Background

5. In the case of *Manole and others v. Moldova*, the ECtHR found that there had been a violation of Article 10 of the Convention because of the censorship and political control exercised by governing parties over the State Television Company, TRM, where the applicants worked as journalists. The Court found that the national authorities failed to comply with their positive obligation to ensure the observance of the principle of pluralism because of a flawed legislative framework, which lacked sufficient safeguards against the control of TRM's senior management, and thus its editorial policy, by the governing political parties.
6. Following the events of the case of *Manole and others v. Moldova*, the relevant regulatory framework has undergone substantial legislative amendments providing remedies against censorship and interferences from public authorities with the media's right to freedom of expression<sup>4</sup>.
7. However, in September<sup>5</sup> and November<sup>6</sup> 2021 the Parliament adopted two laws amending the Code of audiovisual media services and replicating the mechanisms which have been in place at the time of the events relevant for the case of *Manole and others v. Moldova*. The legislative developments included a possibility for Parliament to dismiss members of Audiovisual Council in case of improper performance or failure to perform their duties. The 2021 amendments also changed the composition and the procedure of appointment and dismissal of the members of the Supervisory Board and of the Director General of TRM. In particular, the law now provides for Parliament's direct involvement in this process.

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<sup>3</sup> Updated Action Plan, December 20, 2023, <https://rm.coe.int/native/0900001680adef26>;

<sup>4</sup> Law No. 64/2010 on the Freedom of Expression, [https://www.legis.md/cautare/getResults?doc\\_id=126675&lang=ro](https://www.legis.md/cautare/getResults?doc_id=126675&lang=ro);  
Criminal Code of the Republic of Moldova No. 985/2002 (see Article 180<sup>2</sup> – Censorship),  
[https://www.legis.md/cautare/getResults?doc\\_id=140340&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=140340&lang=ro#);

Law no. 91 for amending the Criminal Code of the Republic of Moldova,  
<http://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/1414/Default.aspx>

<sup>5</sup> Law No. 121/2021 for the amendment of certain normative acts, [https://www.legis.md/cautare/getResults?doc\\_id=128048&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128048&lang=ro);

<sup>6</sup> Law No. 158/2021 amending the Code of Audiovisual Media Services of the Republic of Moldova No. 174/2018,  
[https://www.legis.md/cautare/getResults?doc\\_id=128490&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128490&lang=ro);

8. At its 1436<sup>th</sup> meeting (June 2022) (DH), the Committee of Ministers expressed regrets that these amendments were adopted in a hasty manner and without a proper public consultation.<sup>7</sup> At its last examination of the present case (1459<sup>th</sup> meeting (March 2023) (DH)), the Committee of Ministers encouraged the authorities to rapidly draft amendments to the Code of Audiovisual Media Services, with a proper involvement of civil society and taking due consideration of the relevant Council of Europe and the European Union standards as well as the Council of Europe experts' recommendations [...], with a view to ensuring clear safeguards for a genuine independence of the Audiovisual Council and irremovability of its members, and excluding possible political control of Teleradio-Moldova.<sup>8</sup>

### General measures of the Government's updated Action Plan

9. In its updated Action Plan (paragraph 4), the Government has made reference to a number of amendments introduced<sup>9</sup> in August 2023 (Draft Law no. 218 of 4 July 2023) as pertinent developments in the ongoing matter. It is imperative to underscore that these amendments are unrelated to the implementation of the ECtHR judgment in the case of *Manole and others v. Moldova*. The aforementioned amendments are primarily intended to address the issue of disinformation. They do not pertain to the instances of censorship or political control exercised by governing parties over the public broadcaster, nor do they contribute to the optimization of the regulatory authority's efficacy in the audiovisual domain (\*these mechanisms have never been implemented in practice).
10. The Government has also communicated (paragraph 5 of the updated Action Plan), its active involvement in collaborative efforts with the Parliamentary Joint Working Group (PJWF) dedicated to enhancing media legislation. As a member of the PJWF, the IJC confirms that these collective undertakings center on the formulation of a Draft Law pertaining to the Media Subsidy Fund<sup>10</sup>. Nevertheless, it is imperative to underscore that these legislative developments are categorically unrelated to the execution of the judgment in the case of *Manole and others v. Moldova*. It is expressly clarified that the regulations currently under formulation do not extend their purview to encompass the public broadcaster of the national regulatory authority.
11. In its capacity as a member of the PJWF, the IJC confirms the PJWF's expressed commitment, as articulated in paragraph 6 of the updated Action Plan, to advocate for amendments aligning with the standards of the Council of Europe and the European Union. That said, regrettably, as of the date of this Submission, the matter pertaining to the review of relevant provisions within the Audiovisual Media Services Code, with the aim of ensuring the independence of the members of the Supervisory and Development Board of TRM, has not been deliberated within the agenda of the PJWF. Notably,

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<sup>7</sup> 1436th meeting (DH), June 2022 - H46-15 Manole and Others v. Republic of Moldova (Application No. 13936/02), dec. no. 4. ([https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2022\)1436/H46-15E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2022)1436/H46-15E))

<sup>8</sup> 1459th meeting (DH), March 2023 - H46-14 Manole and Others v. Republic of Moldova (Application No. 13936/02), dec. no. 4 ([https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2023\)1459/H46-14E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2023)1459/H46-14E))

<sup>9</sup> Law No. 143/2022 amending the Code of Audiovisual Media Services of the Republic of Moldova No. 174/2018, [https://www.legis.md/cautare/getResults?doc\\_id=131800&lang=ro](https://www.legis.md/cautare/getResults?doc_id=131800&lang=ro);

<sup>10</sup> The draft law regarding the Media Subsidy Fund, <https://www.parlament.md/ProcesulLegislativ/Proiectedeactenormative/tabid/61/LegislativId/6629/language/ro-RO/Default.aspx>;

requests made by the IJC to instigate efforts in this regard have yet to be acknowledged or acted upon. In this sense, IJC respectfully submits its assessment that, despite stated intentions, the Moldovan authorities have failed to take decisive action aimed at effectively implementing the thrust of the Committee of Ministers above-mentioned (para. 6) latest decision.

## Monitoring Reports

12. IJC would like to reiterate that even before the legislative developments of September<sup>11</sup> and November<sup>12</sup> 2021, the editorial policy of the TRM lacked adherence to principles of impartiality and pluralism due to the indirect political interference in the appointments of TRM's management<sup>13</sup> and of the Supervisory Council's members elected by the Audiovisual Council, a regulator that was also politically influenced<sup>14</sup>. The funding model for the public broadcaster (approx. 90% of its income comes from the state budget) represents an additional factor that fosters the vulnerability of TRM to influence from governing political parties.
13. Monitoring reports of media NGOs<sup>15</sup> and of other institutions and monitoring missions<sup>16</sup> evidenced that public media have the permanent tendency to favor the governing political forces and the coverage of the central authorities' activities is mostly positive<sup>17</sup>.
14. Since our last correspondence with the Committee of Ministers in October 2021, the IJC has undertaken two additional monitoring reports on the newscasts of Moldova 1, one of the two TV channels of the TRM network.

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<sup>11</sup> Law No. 121/2021 for the amendment of certain normative acts, [https://www.legis.md/cautare/getResults?doc\\_id=128048&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128048&lang=ro);

<sup>12</sup> Law No. 158/2021 amending the Code of Audiovisual Media Services of the Republic of Moldova No. 174/2018, [https://www.legis.md/cautare/getResults?doc\\_id=128490&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128490&lang=ro);

<sup>13</sup> Freedom House, Nations in Transit 2020: Moldova, April 2020, <https://freedomhouse.org/country/moldova/nations-transit/2020>; IREX (2018) Media Sustainability Index 2018, Europe & Eurasia, <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2018-full.pdf>;

<sup>14</sup> Audiovisual Council, version 2020: (another) pandemic year of (in) activity?, 13 November 2020 [http://media-azi.md/ro/stiri/consiliul-audiovizualului-versiunea-2020-%C3%AEnc%C4%83-un-pandemic-de-inactivitate?fbclid=IwAR1\\_UiYlu6v4cX6lhQ5cH\\_-mPiu5rY42T7-0jTB3eiX1dzbEBARHbiY\\_uKM](http://media-azi.md/ro/stiri/consiliul-audiovizualului-versiunea-2020-%C3%AEnc%C4%83-un-pandemic-de-inactivitate?fbclid=IwAR1_UiYlu6v4cX6lhQ5cH_-mPiu5rY42T7-0jTB3eiX1dzbEBARHbiY_uKM);

<sup>15</sup> Monitoring Report March 9-15, 2021, (2020) Independent Journalism Center, [http://media-azi.md/sites/default/files/2020\\_04\\_16\\_Raport\\_Monitorizare\\_M1.pdf](http://media-azi.md/sites/default/files/2020_04_16_Raport_Monitorizare_M1.pdf);

Monitoring Report MOLDOVA 1, April-September 2020, available at <http://media-azi.md/en/monitoring-report-moldova-1-period-august-31-%E2%80%93-september-6-2020>;

<sup>16</sup> The reports of OSCE/OHDIHR confirmed that TV Moldova 1 (TRM) gave Dodon (former president of the Republic of Moldova) positive media coverage, while his opponent had neutral coverage.

Election, Second Round, 15 November 2020, Statement of Preliminary Findings and Conclusions <https://www.osce.org/files/f/documents/7/3/470424.pdf>.

<sup>17</sup> A Pillar of Democracy on Shaky Ground, Konrad-Adenauer-Stiftung Media Programme South East Europe [https://www.kas.de/documents/281902/281951/A\\_Pillar\\_of\\_Democracy\\_ebook.pdf/df97d28c-370d-fb7c-fd37-044c5d960389?version=1.0&t=1572511473069](https://www.kas.de/documents/281902/281951/A_Pillar_of_Democracy_ebook.pdf/df97d28c-370d-fb7c-fd37-044c5d960389?version=1.0&t=1572511473069)

Assessment of Public Media Performance in the Presidential Election in Moldova November 2020, Baltic Centre for Media Excellence [https://bcme.eu/upload/products/470/BCME\\_Assessment\\_of\\_Public\\_Media\\_Performance.pdf](https://bcme.eu/upload/products/470/BCME_Assessment_of_Public_Media_Performance.pdf)

15. The monitoring report<sup>18</sup>, covering the period from December 1 to 7, 2023, indicated that Moldova 1 presented information regarding opposition parties and politicians in an equitable and impartial manner. Nonetheless, a slight bias toward the governing party – Party of Action and Solidarity (PAS) – was observed in terms of news coverage frequency, including direct citations as sources. Concurrently, representatives of non-parliamentary political parties received limited attention in the news.
16. The monitoring report<sup>19</sup> for the period from November 28 to December 4, 2022, revealed that Moldova 1 portrayed information about opposition parties and politicians in a neutral and unbiased manner. However, there was a marginal inclination towards the governing PAS party concerning news coverage frequency and allocated airtime. Conversely, the Shor Party received minimal coverage in the informative content of the television channel. Simultaneously, representatives of non-parliamentary political parties were conspicuously absent from the news coverage.

## Conclusions and Recommendations

IJC recognizes that the situation in public broadcasting is no longer comparable to that existing at the time of the violation. Nevertheless, public media have the permanent tendency to favor the governing political forces. The national legislation lacks effective safeguards against interferences with the public media's right to freedom of expression. The general measures listed in the Government's updated Action Plan are unrelated to the execution of the judgment in the case of *Manole and others v. Moldova*. Despite the Government's express acknowledgement of the fact that the legislative developments of 2021 are incompatible with Council of Europe standards, the authorities are reluctant in redressing the situation by providing clear safeguards for a genuine independence of the Audiovisual Council and immovability of its members, as well as exclude possible political control of TRM.

IJC kindly asks the Committee of Ministers to continue monitoring the implementation of this case under the enhanced supervision procedure and respectfully recommends additional general measures, inviting the Committee of Ministers to request the Government of the Republic of Moldova to adopt them.

In further specifying the measures aimed at providing safeguards against the control exercised by the governing political parties over the public broadcaster's senior management, and thus its editorial policy, particular attention should be placed on:

- Recommendation CM/Rec(2016) 4 to ensure independence of the media and safeguard media pluralism, including the independence and sustainability of public-service media and community media, which are crucial elements of a favorable environment for freedom of expression;

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<sup>18</sup> Monitoring report of the public television station Moldova 1, IJC, December 20, 2023 [https://cji.md/en/raport-de-monitorizare-a-postului-public-de-televiziune-moldova-1-2/?fbclid=IwAR2NDOHxPDXN4VMBNtTP13aCyUEWFBE1haZlo\\_rOGQgqObx8w-I\\_mcx8dvM](https://cji.md/en/raport-de-monitorizare-a-postului-public-de-televiziune-moldova-1-2/?fbclid=IwAR2NDOHxPDXN4VMBNtTP13aCyUEWFBE1haZlo_rOGQgqObx8w-I_mcx8dvM)

<sup>19</sup> Monitoring report of the public television station Moldova 1, IJC, December 20, 2022 <https://cji.md/en/monitoring-report-of-the-public-television-station-moldova-1/>.

- Amending the Code of audiovisual media services in line with the Recommendation CM/Rec. (96) 10 in order to ensure that the status and membership of the Audiovisual Council, the Supervisory Council and the senior management of the public service broadcasting organization is drafted so as to avoid placing the bodies at risk of political or other interference;
- Amending the Code of audiovisual media services in order to ensure that the funding model for the public broadcaster will exclude the vulnerability of TRM to influence from governing political parties.

*Sincerely,*

**Cristina DURNEA** | Program Manager  
Media Policies, Legislation and Research Program

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**Independent Journalism Center**

