[MD] Constitutional Court Rejects Amendments to the Television and Radio Act

IRIS 2001-2:1/22

Natalie Boudarina
Moscow Media Law and Policy Centre

On 22 June 2000, the Parliament of Moldova passed amendments to the Act on Television and Radio of 3 October 1995. According to the amended Article 23 (1) of the Television and Radio Act, retransmission from foreign countries of programmes by means of "broadcasting networks and transmitters" which are state property shall be performed by public or private companies holding a broadcasting license and if necessary of a technical license, or having a contract to rent the "broadcasting networks and transmitters."

The second part of the amended article prohibits broadcasting companies from combining retransmission of foreign programmes with compilation, production and release of the original programmes onto the air on the frequencies (channels) used for such retransmission, with the exception of commercial advertising.

These provisions were challenged before the Constitutional Court by the President of Moldova and a Deputy of the Parliament as being unconstitutional. They considered that the above-mentioned rules set obstacles not only to freedom of thought and opinion, but also hinder realisation of freedom of expression through word, image and other possible modes and infringe the right to access any information that concerns public matters. Therefore creative activity and the mass media are subjected to state censorship.

The Constitutional Court decided that the ban was not justified and that it was contrary to the universally recognised principles of international law in this sphere. Referring to the Act on Television and Radio, the Court considered that the ban on combining the retransmission and the compilation, production and release of the original programmes on the same frequencies was against freedom of opinion and the right to seek, obtain, and distribute information and ideas by any means and irrespective of state boundaries. These amendments were also in contradiction with the Act on Television and Radio as regards international co-operation. The Act states that international co-operation in the television and radio sphere is regulated through treaties and agreements made between the Television and Radio Co-ordination Council or the broadcasting companies, on the one hand, and foreign companies, on the other. These treaties and agreements lay down terms, procedures of reception and retransmission of programmes from foreign countries, as well as the nature of their combination with original

© European Audiovisual Observatory (Council of Europe) 2026

programmes.

Commercial advertising, programmes and films produced by the broadcasting companies are intellectual works covered by copyright law and their protection is guaranteed in any form if it does not contravene public interests. This intellectual property right also applies to all the "creative workers" of television and radio companies. Having allowed commercial advertising and having excluded the original programmes from the process of retransmission from abroad, the legislator infringed upon the constitutional provisions that give equal protection of all forms of ownership.

According to the amended Act on Television and Radio, broadcasting companies that have the right to retransmit programmes obtained through satellite facilities must also retransmit national programmes, while the companies providing services by means of cable networks have the right to retransmit programmes transferred by radio-electronic terrestrial or satellite means, retransmit programmes pre-recorded by various means and distribute their own programmes.

The Constitutional Court considered these amendments to be an attempt to censor broadcasting activities. In its Decision, the Court stated that the provisions of the second section of Article 23 did not correspond to the constitutional rules.

Republica Moldova Curtea Constitutionala, Hotarire #42 of 14 December 2000, case 48a/2000. Published in Monitorul Oficial al Republicii Moldova, #163-165, 29 December 2000

Decision of the Constitutional Court, Hotarire #42 of 14 December 2000, case 48a/2000. Published in Monitorul Oficial al Republicii Moldova, #163-165, 29 December 2000

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026