[MD] Freedom of Expression Act Enters into Force

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On 9 October 2010 the Statute of the Republic of Moldova on Freedom of Expression, adopted by the Parliament on 23 April 2010, enters into force. The act aims inter alia to implement the case law of the European Court of Human Rights on Article 10 into the statuary law of the country, especially in relation to the balance between freedom of expression and the right to honour and dignity, and the right to privacy. The Statute introduces into the Moldovan law such terms as “fact”, “opinion”, “opinion that has no adequate factual basis”, “public interest”, “public figure”, “person who conducts public functions”, “journalistic investigation”, “apologies”, “hate speech”, etc. It also expands some of the existing notions such as “censorship”, which now includes “ungrounded distortion of a journalist’s material by the leadership of the mass media outlet” (Art. 2).

Article 3 para. 2 states that freedom of expression protects information “that offends,shocks or disturbs”. Para. 3 is a verbatim translation of Article 10 para 2 of the European Convention on Human Rights. Para. 5 stipulates that freedom of expression does not protect hate speech.

Article 4 para. 3 adds to the guarantees of the freedom of expression in the mass media the right “to exaggeration or even provocation, as long as the essence of the facts is not distorted”.

Most provisions of the new statute introduce norms related to defamation and privacy law, including procedural norms. The basic provisions here are as follows. “Protection of honour, dignity and business reputation shall not prevail the right of the public to obtain information of public interest” (Art. 6 para. 2). As to the protection of privacy the Statute stipulates (Art. 10 para 3): “No one shall be prosecuted for disclosure of information on private or family life of a person if the public interest in its dissemination overweighs the interest of the particular person in its nondisclosure.” The Statute establishes a limitation period of 30 days for a defamation lawsuit (Art. 17). Moral damages can be awarded to a public figure only in a case of malicious defamation (Art. 29 para 2).

The Statute also deals with such issues as protection of sources of information and journalistic privileges.

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