[MD] Audiovisual Code amended to strengthen parliamentary control and change advertising rules

IRIS 2022-5:1/20

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Several noteworthy legal changes happened in the regulation of the audiovisual sector in Moldova at the end of 2021.

On 4 November 2021 the Code of the Audiovisual Media of the Republic of Moldova (see IRIS 2019-3/24 and IRIS 2021-3/11) was amended to introduce new levers of parliamentary control. The amendments subject the Director-General of the public service broadcaster TRM to the political choice of the Parliament, including the decisions regarding his/her appointment, performance assessment, and dismissal. This parliamentary control replaces the control over these matters previously held by TRM's Supervisory and Development Board. The amendments also introduced provisions regarding the requirements and qualifications for the appointment and possible dismissal of the members of the Audiovisual Council, the national independent media regulator. The related provisions on this are essentially identical to those applicable to the governance body of TRM. On 23 November 2021, the Constitution Court of the Republic of Moldova adopted a judgment on the constitutionality of certain provisions of the Code of the Audiovisual Media regarding advertising. In particular, it reviewed the provision of Article 66, paragraph 7, that bans "advertising and teleshopping programmes in retransmitted foreign audiovisual media services". The Constitutional Court found such an "absolute" ban contradicting freedom of expression (Article 32 of the Constitution) and Moldova's obligations, under the European Convention on Transfrontier Television (ECTT), on retransmission freedoms. The ban makes no difference between media services from the countries that ratified the ECTT and those from other countries. In the first case, retransmitted advertising and teleshopping do not specifically or systematically address a Moldovan audience or violate Moldova's national legislation. The provision was found unconstitutional. The amendments to the Code of the Audiovisual Media adopted on 25 November 2021, in their turn, banned advertising, sponsorship and product placement of gambling and sports-betting services and organizations. The OSCE Representative on Freedom of the Media (RFoM), Teresa Ribeiro, presented on 14 January 2022 a legal analysis of the amendments, adopted on 4 November 2021. She called on Moldova's authorities to revisit the legal framework related to freedom of broadcasting in order to ensure its full compliance with international human rights standards and the OSCE commitments.

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Codul serviciilor media audiovizuale al republicii moldova în Republica Moldova (COD Nr. 174 din 08-11-2018)

https://www.legis.md/cautare/getResults?doc_id=129046&lang=ro

Code of the Audiovisual Media of the Republic of Moldova), N174 of 08.11.2018 (as amended)

Curtea Constituțională, Hotărâre privind excepția de neconstituționalitate a articolelor 66 alin. (7) și 84 alin. (13) din Codul serviciilor media audiovizuale (excluderea publicității și a teleshopping-ului din programele retransmise) (sesizarea nr. 25g/2021)

https://www.legis.md/cautare/getResults?doc_id=128967&lang=ro

Judgment of the Constitutional Court on an exceptional case of unconstitutionality of Art. 66 (7) and Art. 84 (13) of the Code of the Audiovisual Media (exclusion of advertising and teleshopping from retransmitted programmes) (application N25g/2021)), N36 of 23.11.2021

Lege pentru modificarea unor acte normative (Publicat: 15-12-2021 în Monitorul Oficial Nr. 308 art. 458)

https://www.legis.md/cautare/getResults?doc_id=129026&lang=ro

Law on amendments in normative acts), N195 of 25.11.2021, published on 15.12.2021 in Monitorul Oficial N. 308 art. 458

“OSCE Media Freedom Representative: “Moldovan public service broadcaster and media regulatory authorities should be free from political interference”, press release

https://www.osce.org/representative-on-freedom-of-media/509924

Lege pentru modificarea Codului serviciilor media audiovizuale al Republicii Moldova nr. 174/2018

https://www.parlament.md/ProcesulLegislativ/Proiectedeactelegislative/tabid/61/LegislativId/5672/language/ro-RO/Default.aspx

Law on amendments of the Code of the Audiovisual Media of Republic of Moldova, N 158, 04.11.2021

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