

AUDIOVISUAL DEVELOPMENT STRATEGY for 2023 - 2027

INTRODUCTION

The Audiovisual Council (AC) is the guarantor of the public interest and the only autonomous public authority, with the status of a legal person under public law, regulating the field of audiovisual communication. The mission of the AC is to contribute to the development of audiovisual media services, ensuring a climate based on the freedom of expression and accountability to the public in the relevant field. In order to fulfil this mission, the Audiovisual Media Services Code (AMSC) establishes the prerogative of the AC to approve and implement medium- and long-term development strategies for audiovisual media services.

The Audiovisual Development Strategy for 2023-2027 (hereinafter referred to as the "Strategy") is a medium-term policy document of the AC adopted in accordance with the provisions of Art. 75 para. (2) of the AMSC. This document identifies several strategic directions for which actions and activities are defined the implementation of which is a priority in the next period, which is why monitoring indicators, responsible parties and implementation deadlines are set.

The AC priorities outlined in the Strategy derive mainly from the need to ensure the continuity of the reform process initiated by the National Concept for Media Development in the Republic of Moldova, approved by PL no. 67 of 26.07.2018¹. At the same time, this Strategy represents an alignment of the planned actions with the provisions of the Association Agreement between the European Union and the Republic of Moldova, Title IV, Chapter 25 (Cooperation in the field of culture, audiovisual and media policy), in line with European standards and international best practice. In the same vein, the strategic directions of activity are also formulated on the basis of shortcomings in the administrative practices of the AC and the institutional needs of the authority, highlighted by the analysis of the current situation of the audiovisual sector.

The strategy aims at ensuring a real audiovisual pluralism, characterized by the cumulative combination of the following features: (1) diversity of media service providers, audiovisual media services and audiovisual programmes within the same audiovisual media service; (2) presence of the general public's opinions in audiovisual media services, especially linear ones; (3) presence of free, autonomous, economically and editorially independent media service providers; (4) access of the general public to the range of opinions present in the audiovisual media services.

In addition to the Introduction, the structure of the Strategy includes (1) an analysis of the current situation of the audiovisual sector; (2) the general objectives arising from the analysis and the actions required to achieve the objectives; (3) the method of evaluating and reporting on the actions; final provisions. An integral part of the policy document is the Action Plan, the implementation of which should lead to the achievement of the Strategy's goal.

¹ Law No. 67 of 26.07.2018 on the approval of the National Concept for Media Development in the Republic of Moldova;

CHAPTER 1. THE CURRENT SITUATION IN THE AUDIOVISUAL SECTOR

This chapter aims to analyze the situation in the audiovisual sector, examining the sufficiency and effectiveness of the relevant regulatory framework, the number and geographical distribution of audiovisual media service providers and distributors, the typology of audiovisual media services, the legal regime of ownership and the criteria for classifying audiovisual media service providers, as well as the institutional and operational capacities of the AC. In terms of time, the examination of the above aspects is carried out by reference to the period 2019-2022, during which the activity of the AC was marked by two contrasting components.

On November 11, 2021, following the examination in plenary session of the Activity Report of the Audiovisual Council for the year 2020, the Parliament of the Republic of Moldova dismissed the members of the Audiovisual Council by right, and on December 3, 2021, by Decision No. 196, voted the new composition of the Audiovisual Council.

1.1. Sufficiency and effectiveness of the audiovisual regulatory framework

a) Primary legislation. Organic and ordinary laws.

The **Audiovisual Media Services Code** No. 174 of 08.11.2018² is one of the main normative acts that must guide the legal subjects generically classified into five categories: (1) media service providers; (2) media service distributors; (3) the regulatory authority - AC; (4) bodies supervising the activity of public providers and (5) video sharing platform service providers.

The audiovisual sector is intertwined with a multitude of related areas, which are regulated by a number of general (Administrative Code) and special (Law on Freedom of Expression, Law on Advertising, Law on Copyright and Related Rights, etc.) normative acts, as well as international treaties to which the Republic of Moldova is party.

The clarity, accessibility and predictability of the provisions of these legal acts are some of the factors that determine the effectiveness of the legal framework regulating the audiovisual sector. It is important that it is correctly and uniformly understood by all legal subjects, but a particular role in this context is played by the regulatory authority in the field - AC.

The **Administrative Code** No. 116 of 19.07.2018³ is the framework law ensuring the regulation of administrative relations in the performance of administrative activity and judicial review thereof. All the administrative activity aimed at organizing the application of audiovisual media legislation and its direct application, under public authority, by the AC must meet the conditions and requirements established by the Administrative Code.

From the moment the administrative procedure is initiated until its completion, the AC must ensure that the rights and safeguards provided by law are respected for all participants involved: the natural and/or legal person who requested the initiation of the procedure

² https://www.legis.md/cautare/getResults?doc_id=130823&lang=ro

³ https://www.legis.md/cautare/getResults?doc_id=129135&lang=ro

or in respect of whom the procedure was initiated, as well as any other person involved by the public authority in the administrative procedure. Failure to comply with the procedural formalities for issuing individual administrative acts leads to their annulment following the legality review.

The incomplete reasoning of decisions is one of the problematic aspects of the administrative practices of the AC. The provisions of the AMSC, together with those of the Administrative Code, make it compulsory to state the reasons for individual administrative acts. The reasoning part of the decisions of the AC must contain the reasons *in fact*, *in law* and, in the case of unfavourable administrative acts (sanctioning decisions), a brief description of the administrative procedure on which the act was based. The full statement of reasons is obligatory, is an integral part of the individual administrative act and conditions its legality. According to the practice until the end of 2021, the reasoning part of the sanctioning decisions issued by the AC did not in all cases correspond exactly to the requirements established by the provisions of the Administrative Code, which resulted in the annulment of some decisions by the courts. As a rule, practice shows that the regulatory authority substitutes the reasoning part for the arguments put forward by the members of the AC when justifying their vote. In this context, it should be pointed out that the AMSC does indeed make it obligatory for the vote expressed by each member of the AC to be accompanied by arguments. These opinions, however, set out the considerations justifying the way in which the member of the collegial body exercised his or her right to vote and do not represent, in all cases, within the meaning of the provisions of the Administrative Code, the reasoning part of the decision. In the case of unfavourable administrative acts adopted by a majority vote of the members of the collegial body, the full reasoning must be based on the same legal grounds supported by the majority and on the same rationales justifying the appropriateness of issuing the administrative act. The minority opinions of the members of the AC shall be recorded separately in the minutes of the meeting.

The individualization of the punishment. When determining the sanction applicable to subjects falling under the provisions of the AMSC, the principle of individualization of the sanction - a fundamental principle applicable to the administrative liability regime - must be observed. The essence of this principle is that the application of the sanction for violating the provisions of the audiovisual media legislation must be based on an objective and realistic assessment, which ensures both the preventive-educational role of the sanction and the restorative one. The AMSC lists three criteria to be examined by the AC when determining the sanction: (1) the seriousness of the infringement; (2) the effects of the infringement; (3) the frequency of infringements committed in the last 12 months. The argumentation of the rationales underlying the quantification of the sanction is a mandatory element of the reasoning part of the individual administrative act. At the same time, in the case of persons in similar situations (two suppliers have committed the same infringements), the AC is obliged to treat them equally, acting in the administrative procedure in accordance with the principle of equality and non-discrimination. Otherwise, the risk of the annulment of the sanctioning administrative act increases. According to the case law developed following challenges to sanctioning decisions issued by the AC, the authority's practices in the context of individualizing the sanction and motivating the administrative acts need to be improved.

Procedural deadlines. The AMSC establishes a general time limit of 15 working days from the date of submission of the complaint or petition to carry out a check on the factual circumstances reported by another public authority or by a petitioning natural or legal person. At the same time, no later than 5 working days after the control has been carried out, the AC must examine the complaint or petition in a public meeting

and finalize the administrative procedure by issuing an individual administrative act. In the context of the precariousness of operational procedures (due to modest human resources and insufficient technical and technological capacities), the duration of these deadlines is insufficient to ensure the smooth running of the administrative procedure in all cases.

The Law on Freedom of Expression No. 64 of 23.04.2010⁴ is of double practical importance for the regulation of audiovisual media services. On the one hand, the AC acts as a guarantor of ensuring the freedom of expression, and, on the other hand, whenever there is a risk that punitive sanctions by the AC may amount to an unjustified interference in the right to freedom of expression, the authority must practice the exercise of balancing the competing rights by having recourse to the standards of the ECtHR jurisprudentially enshrined in the "triple test". According to the AMSC, the AC must act, *ex officio* and on referral, in order to ensure the freedom of expression, taking into account the right of reply or rectification upon request. Although the provisions of the Law on Freedom of Expression establish the reply as a valid means only in the case of spreading value judgments without sufficient factual basis, in the administrative practice of the AC until the change of its composition in December 2021 there were cases when the authority took punitive measures against the providers of media services that spread reports about facts.

While the Law on Freedom of Expression establishes that censorship of any kind on audiovisual media services is prohibited, the AMSC delegates to the AC the prerogative to examine, upon request or on self-reporting, cases likely to prevent or effectively restrict the free exercise of the activity of media service providers (MSPs). At present, the authority has no methodological support for monitoring and examining such cases, at least with regard to the public audiovisual media service providers. **The Law on Copyright and Related Rights** No. 139 of 02.07.2010⁵, a new Law on Copyright and Related Rights (No. 230 of 28.07.2022) was approved in the second reading in the Parliament of the Republic of Moldova on 28.07.2022. The AC examines and resolves petitions concerning the activity of the MSPs and media service distributors (MSDs), including on copyright and related rights. The authority has the prerogative to verify the presence of the contracts with copyright/streaming right holders and their validity, using the following two methods: (1) sending a request for the submission of confirmatory documents and (2) carrying out on-the-spot checks. The AMSC establishes sanctions (from MDL 15,000 to MDL 20,000) for "broadcasting cinematographic works outside the periods stipulated in the contracts concluded with the copyright and related rights holders or without obtaining a valid license granting the right to broadcast them". At the same time, the Code provides for sanctions (from MDL 5 000 to MDL 10 000) for "failure to submit, at the request of the AC, the contracts concluded with the holders of copyright and related rights" or for refusing to be subject to control. Objectively, the MSPs and MSDs who have infringed copyright and related rights legislation and are acting in bad faith prefer to refuse to submit the confirmatory documents or to carry out the inspection, as the sanction for doing so is much more advantageous for them.

According to the AMSC, the AC cooperates with the authority for the protection of intellectual property objects, as well as with the organizations for the collective management of patrimonial rights in order to ensure the protection of copyright and related rights in the audiovisual sector.

⁴ https://www.legis.md/cautare/getResults?doc_id=126675&lang=ro

⁵ https://www.legis.md/cautare/getResults?doc_id=95282&lang=ro#

Law on Advertising No. 62 of 17.03.2022⁶. Since 2023, relations between suppliers, producers, distributors, broadcasters and consumers of advertising will be regulated by a new law, which comes to replace a normative act⁷ adopted in 1997, which for a long time no longer fully satisfied the regulatory needs of the sector. The new normative act lists the AC among the authorities attributed with the prerogative to ensure, within the limits of the powers provided for by the AMSC, that the legislation on advertising is respected. In addition to the many improvements in the regulation of certain segments of the advertising sector, the Law also introduces some entirely new and necessary provisions for audiovisual media services, such as, for example, those concerning political advertising or public interest messages. As a consequence, the AC is to adjust its normative administrative acts (secondary legislation) to the provisions of the new Law on Advertising.

The Electoral Code No. 1381 of 21.11.1997⁸ establishes a number of duties that the AC exercises during the electoral period with regard to ensuring compliance with the general principles and particularities of election coverage in the media. According to the administrative practices of the AC so far, as well as national case law, created as a result of challenges to the decisions of the authority, there are several practical problems when it comes to sanctioning providers for violations of the provisions of the Electoral Code and/or the Regulation on the coverage of the electoral campaign in the media. It is about sanctioning the MSPs for non-compliance with Art. 69 para. (1) of the Electoral Code ("Broadcasters and print media founded by public authorities are obliged to respect the principles of fairness, responsibility, balance and impartiality in the coverage of elections"). Because Art. 84 of the AMSC does not provide for para. (1) of Art. 69 of the Electoral Code as a punishable deed, the AC issued the sanctioning decisions in the light of the violation of the provisions of the Broadcasting Licence Conditions. Therefore, following the legality review by the courts, the individual administrative act of the AC was annulled⁹.

The Law on the protection of children against the negative impact of information no. 30 of 07.03.2013¹⁰, together with the provisions of the AMSC, delegates to the AC wide-ranging powers in the field of supervision of compliance with and implementation of legal provisions aimed at ensuring the best interests of minors in the field of audiovisual media services. Through the secondary legislation adopted, the AC has established detailed regulations on the classification of audiovisual programmes and other measures aimed at the protection of minors.

The Law on Ensuring Equality No. 121 of 25.05.2012¹¹ and the **Law on Ensuring Equal Opportunities for Women and Men** No. 5 of 09.02.2006¹² are two other special normative acts aimed at preventing and combating discrimination and ensuring equality for all persons in various spheres of life, regardless of race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinion, political affiliation or any other similar criteria. The AMSC, for its part, establishes the principle of equality between women and men, as well as

⁶ https://www.legis.md/cautare/getResults?doc_id=130742&lang=ro

⁷ https://www.legis.md/cautare/getResults?doc_id=87452&lang=ro#

⁸ https://www.legis.md/cautare/getResults?doc_id=130981&lang=ro

⁹ http://jurisprudenta.csj.md/search_col_civil.php?id=59214

¹⁰ https://www.legis.md/cautare/getResults?doc_id=106343&lang=ro

¹¹ https://www.legis.md/cautare/getResults?doc_id=106454&lang=ro

¹² https://www.legis.md/cautare/getResults?doc_id=107179&lang=ro

prohibitions on discriminatory speech. In contrast to the regulations in secondary legislation on the protection of minors, those aimed at ensuring equality are modest.

The Law on Social Inclusion of Persons with Disabilities No. 60 of 30.03.2012¹³ regulates the rights of persons with disabilities with a view to their social inclusion, guaranteeing the possibility of their participation in all areas of life without discrimination, on an equal level with other members of the society, based on the respect of fundamental human rights and freedoms. The AMSC, for its part, establishes regulations on the protection of persons with disabilities, and through the secondary legislation the AC approves regulations to ensure the right of access to audiovisual media services for persons with visual or hearing disabilities.

Amendment and completion of the regulatory framework. Since 2019, when the AMSC came into force, and until now, audiovisual media legislation has become the target of several amendments that have not resulted each time in changes beneficial to the sector. For example, in 2020, the Parliament excluded the provisions informally referred to as the "anti-propaganda law"¹⁴. Thus, there were admitted risks of information insecurity of the national audiovisual space, generated by media products originating from states that have not ratified the European Convention on Transfrontier Television. Further amendments to the provisions of the AMSC followed in the autumn of 2021, establishing new grounds for the dismissal of the members of the AC, as well as mechanisms involving the direct involvement of the Parliament in the appointment and dismissal (on unclear grounds) of the management and supervisory bodies of the public media service provider. According to local NGOs, the European Broadcasting Union (EBU) and the findings of a study by OSCE expert Dr. Joan Barata Mir, these amendments bring national legislation further away from EU standards. In June 2022, the Parliament legislated a series of amendments¹⁵, which include the addition of the concept of disinformation to the AMSC, as well as a ban on the broadcasting and retransmission of programmes with informative, informative-analytical, military and political content produced in countries other than the Member States of the European Union, the United States of America, Canada and countries which have ratified the European Convention on Transfrontier Television. Following the adoption of the amendments, the authority gained a new lever to counter disinformation. In order to ensure the applicability of this lever, in line with the principles and standards of the ECtHR developed in the field of freedom of expression, the development of a methodological guide for the AC is a recommended measure.

The role of the AC in improving legislation. The AMSC stipulates that, at the stage of approving the draft normative acts regulating the activities in the audiovisual and related sectors, the Parliament must request the consultation of the AC. As a rule, in order to streamline the process of approval and to improve the quality of the expert appraisal of draft administrative acts, the subjects vested with the right of approval have recourse to methodologies and regulations aimed at clarifying the process up to the delivery of approvals, as well as the quality standards of the deliverables.

b) Secondary legislation. Administrative normative acts of the AC.

¹³ https://www.legis.md/cautare/getResults?doc_id=132240&lang=ro#

¹⁴ https://www.legis.md/cautare/getResults?doc_id=124554&lang=ro

¹⁵ <https://www.parlament.md/ProcesulLegislativ/Proiectedeactelelegislativ/tabcid/61/LegislativId/5941/language/en-US/Default.aspx>

In the exercise of its generic mission ("to contribute to the development of audiovisual media services"), the AC issues individual administrative and normative acts¹⁶, concludes administrative contracts, executes actual acts and carries out administrative operations, all aimed at organizing the application of the law and its direct enforcement.

Decisions of a normative nature issued by the AC are legal acts subordinated to the law, laying down compulsory application rules for an indeterminate number of identical situations. According to the activity reports of the AC, in the period 2019-2021, the authority adopted 39 normative administrative acts (22 decisions - in 2019, 10 - in 2020 and 7 - in 2021). This numerical result, however, does not actually equate to 39 normative acts that would establish detailed provisions to ensure the implementation of the provisions of the AMSC.

A good number of these normative decisions represent amendments to the previous decisions, which even after the interventions performed have not become substantially better. For example, the decision referring to the classification of MSPs, which has been repeatedly amended, has not added certainty to the issue. In March 2022, a new attempt was made to classify the MSPs, which is much more appropriate, but certainly not the last.

At the same time, some decisions, qualified and assigned to the "normative" category, are not normative. For example, the Decision of the AC No. 11/66 of March 19, 2021 on the recommendations for the media coverage of the COVID-19 pandemic or the Decision of the AC No. 19/135 of May 27, 2021 on the recommendations for the media coverage of actions to raise public awareness on the seriousness of the situation caused by the COVID-19 infection, cannot have a binding character, like a normative act.

The main administrative acts of a normative nature issued by the AC include:

[Decision](#) No. 15/97 of 04.07.2017 on the approval of the Regulation on the procedure and conditions for issuing digital broadcasting licenses and digital retransmission authorizations for the use of multiplexes;

[Decision](#) No. 17/59 of 09.04.2019 on the approval of the model of Conditions for the broadcasting licence;

[Decision](#) No. 17/58 of 09.04.2019 on the approval of the models of forms related to the procedure for issuing, extending and amending the broadcasting licence;

[Decision](#) No. 18/60 of 25.04.2019 on the approval of the model of Conditions for the retransmission authorization;

[Decision](#) No. 54/182 of 31.10.2019 on the approval of the Regulation on the procedure for the appointment and dismissal of the Chairperson and Vice-Chairperson of the Audiovisual Council;

[Decision](#) No. 57/193 of 08.11. 2019 on the approval of the Regulation on the procedure for the appointment and dismissal of the Chairperson and Vice-Chairperson of the Audiovisual Council;

[Decision](#) No. 61/219 of 30.12.2019 on the approval of the Regulation on audiovisual content;

[Decision](#) No. 61/220 of 30.12.2019 on the approval of the Regulation on the procedure of notification and issuance of the notice of provision of non-linear audiovisual media services;

[Decision](#) No. 6/35 of 04.03.2020 on the approval of the Instruction on media coverage of social campaigns.

A Council of Europe analytical report entitled "Compatibility of legal normative acts adopted by the Audiovisual Council between January 2019 and July 2020 with national legislation and European standards in the field" finds that some of the normative acts analyzed

¹⁶ Art. 75 para. (6) of the AMSC: "In order to exercise its powers, the Audiovisual Council shall issue normative acts and rules of professional conduct of a recommendatory nature".

need to be improved. The report recommends to the AC to update, complete and adjust the analyzed normative acts to the national legislation and European standards; in the process of drafting new normative acts to analyze the relevant international experience in order to take over the best practices valid also for the Moldovan audiovisual sector, and in the drafting and adoption of normative acts to respect the rules of legislative technique. Although the analytical report was made in mid-2020, its conclusions, for the most part, remain valid.

The normative acts of the AC reported to the AC's tasks on this dimension, dictated by the AMSC, indicate a clear insufficiency of secondary legislation. There are currently no normative acts that would cover: audiovisual commercial communications, content of video sharing platform services, legal regime of ownership, ensuring gender equality and protection of national audiovisual space.

No methodologies are developed for monitoring the content of video-sharing platform services or for monitoring audiovisual pluralism and compliance with the rules on remedying situations of dominance in the formation of public opinion. There is a regulatory act on non-linear media services, but it is not yet implemented. The existing regulatory framework, for the most part, needs to be updated and improved in order to respond to legislation, international best practices and the major risks that the progress of information technologies generates, along with the undeniable benefits.

In fact, the new composition of the AC has started to improve the existing secondary legislation and to supplement it with new normative acts. The new composition, appointed in a different legal form at the end of 2021, has practically begun its work on a full-scale basis in 2022. In order to outline a picture of how the new AC functioned in its first months, we call on some comparative and comparable statistical data available on the regulator's website for the years 2019-2022, the reference periods (see the attached tables).

Meetings and decisions in the first 6 months		
year	meetings	decisions
2019	25	84
2020	14	90
2021	24	160
2022	30	215

Monitoring in the first three months and monitoring results				
Year	Number of monitored MSPs	Number of broadcasting hours decoded	Number of sanctions	Total fines (MDL)
2019	13	427	19	45.000
2020	10	221	2	15.000
2021	18	1058	23	140.000
2022	27	4944	86	560.000

Noteworthy actions and approaches of the AC in 2022:

- The initiation and entrenchment of the practice of public consultation on draft normative acts or other important documents before they are approved in public meetings. This is, for example, the case of the AC Business Plan for 2022, which was discussed, approved and made public, thus giving any institution organization, mobilization, predictability in its actions, as well as a mechanism for public

control over the work of the institution. This is also the case for the initiation of the drafting of a medium-term development Strategy in the sector.

- The broadening of the range of concerns, dictated by law but ignored or bypassed, capable of improving the situation in the field. In this specific case, we are highlighting the first steps towards clarifying the situation regarding the legal regime of ownership and the transparency of ownership in the audiovisual sector, a topic/problem that has been put on the agenda of public meetings.

The work of the new composition of the Audiovisual Council during the first months of its mandate can be further analyzed on many levels, but it is more important that this work is monitored and judged over time. What is certain is that the strong start must continue in force, in order to remedy and overcome the great deficiencies of the field, accumulated over time, present and persistent, deficiencies highlighted by the brief analysis that follows.

1.2. The audiovisual media landscape

In the Republic of Moldova, according to accessible data, the number of sound broadcasting MSPs ranged from 55 in 2019 to 60 in 2022. The register of television media service providers, updated on April 01, 2022, includes:

- 13 programme services broadcast via terrestrial channels - of which 3 broadcast only via terrestrial channels, 7 broadcast also via cable networks, 2 broadcast also via satellite.
- 68 programme services broadcast via cable networks - of which 54 broadcast via cable networks only, 7 broadcast also via terrestrial channels, 4 broadcast also via satellite;
- 7 programme services broadcast via satellite - of which 1 broadcast via satellite only, 2 broadcast also via terrestrial channels, 4 broadcast also via cable networks.

The document is entitled "Register of Media Service Providers", but also includes providers and their media services broadcast via terrestrial channels, cable networks or satellite. Thus, on April 1, 2022, there are 72 audiovisual media services holding broadcasting licences.

In the annual activity reports of the AC, the "audiovisual market in figures and charts" is also presented almost regularly. The correctness and accuracy of 'figures and charts' can only be ensured by starting from correct and accurate empirical data. Otherwise, the analysis of the sector cannot foreshadow its real situation and therefore cannot help the regulatory authority to take informed action in problem areas. Only a true and accurate diagnosis of the sector can adequately guide the regulator's actions.

From the data on the MSPs and MSDs over the last four years, we can see a relative stability in the number of radio stations, an increase in the number of TVs, provided by cable TVs, and a clear trend towards a decrease in the number of distributors.

This in itself indicates a virtual exhaustion of the frequency spectrum for radio broadcasting and the gradual disappearance of small MSDs, a trend which exists throughout the world and which has economic reasons. This would mean that the development of genuine pluralism in radio broadcasting can no longer be stimulated by expanding the number of providers, but by diversifying the existing media services, which is important for the AC to consider. As far as MSD is concerned, the downward trend in their number should continue to be expected and the phenomenon - accepted as natural.

Geographical distribution

With all the statistical data available to us, we can attest to a clearly uneven geographical presence of MSPs and MSDs. About 2/3 of radio stations (43 out of 60), more than 80% of TV stations (61 out of 72) and almost half of MSDs (19 out of 46) are based in the capital. This highlights a serious situation if entire regions are deprived of these sources of information. The situation needs to be remedied at speed, given the citizen's right to information wherever they live in the country. But first we need accurate statistics, including the number of citizens who have/do not have MSPs and/or MSDs in the areas where they live. Without them interventions would be on the rocks.

Typology of audiovisual media services

According to the AMSC, the types of media services are classified into general, news and thematic services. The AC has for many years adopted a different classification, which it has not abandoned even in 2021, three years after the entry into force of the AMSC.

No.	Types of audiovisual media services	Television services		Radio broadcasting services	
		2021	2022	2021	2022
1.	Generalist	50	47	30	30
2.	News	7	7	0	0
3.	Music	1	2	4	4
4.	Music-fun	5	5	18	18
5.	Thematic: agro-industrial	1	1	0	0
6.	Informative-analytical	1	1	0	0
7.	Cultural-educational	1	1	0	0
8.	For children	2	2	0	0
9.	For adults	0	0	2	2
10.	Religious	1	1	3	3
11.	For youth	0	0	1	1
12.	Environmental protection	0	0	1	1
13.	Entertainment	0	2	1	1
14.	Promotion of minority rights	1	1	0	0
15.	Cinema	1	1	0	0
16.	Sport	0	1	0	0
Total:		71*	72	60*	60

* According to the Report on the AC activity in 2021 (page 7)

The AC, for the time being, arbitrarily classifies media services and it is difficult for such classification to be understood uniformly by the AC, the providers and the public. The AC classification is by far dominated by generalist services, while there are, for example, no news radio stations and very few thematic ones. For the diversification of media services, a different approach by the authority has long been needed. If the frequency tender notices were to indicate the type of services to be given priority, this would increase the chances of actually broadening external audiovisual pluralism and not multiply the type of media services already on the market. There is a need for mechanisms

to stimulate the emergence of thematic media services with missing profiles, but which are needed by citizens, and this is precisely what audiovisual pluralism aims at - diversity of media services.

Classification of audiovisual media service providers

The AMSC classifies the MSPs into national, regional and local providers. The AC classification in different periods also shows a different approach:

Year	Television services			Radio broadcasting services*		
	national	regional	local	national	regional	local
2021	13	38	10	2	12	41
2022	41	10	7	5	10	45

* 2019 classification

The AC, since 2019, has made several attempts in public meetings to classify the MSP. This fact reveals how difficult it is to assign the exact status of a MSP. Accuracy is appropriate, given that the conferred status means corresponding obligations, especially, in terms of local product and election coverage.

According to the classifications up to 2022, most TVs had regional MSP status and therefore lower mandatory shares of local product. Such a classification was suspicious, as most TVs address audiences at national level, and with the current means of media services distribution, coverage can be not only national, but also global.

For a long time, the only classification criterion was the geographical coverage area. This criterion, when and how long you are on the Internet, becomes either meaningless or useless for the purpose of classification. This is the reason why the AMSC also provides for the second criterion - who, in fact, is the MSP targeting? The entire public in the country, or that in a regional area, or that in a local area? It could, in a sense, be that the message is addressed to a community - the law provides for the attribution of community MSP status to some MSP radio broadcasters. In other words, classification is a thorny, complex and painstaking concern, ultimately resulting in each MSP being assigned the correct, objective and real status.

The AC classification of March 30, 2022, which significantly changed the status of MSP from 13 to 41 national TV providers compared to the previous ones, is much closer to the real situation, but the classification issue remains a concern of the AC.

Legal regime of ownership

According to the AC data, eight television and four radio broadcasting MSPs hold 2 broadcasting licences each, and the others - one licence each.

The names of the final beneficiary owners have been known for several years, although the rule in question was first included in the Electoral Code in June 2010. However, for years the AC ignored this legal provision when approving editorial policy statements in the coverage of elections, statements in which the MSPs, out of inertia, indicated the founders and not the owners of TV or radio stations, as the rule dictated. It is impossible to judge the ownership regime, because in this area, too, exact data are lacking.

The MSPs and the MSDs submit annual activity reports to the AC. From 2019, according to the AMSC, it was mandatory for the reports to indicate the sources of funding of each MSP. The obligation, however, is most of the time ignored, without any adequate reaction from the AC. A destructive role in this situation was and is played by the model table, according to which the reported sources of funding are divided into internal and external sources. Simply ticking 'internal sources' or 'external sources' makes no sense and is completely irrelevant. It gives the impression that such an approach to the subject is more likely to camouflage funding than to make it transparent.

The AC will probably have to take a different approach to the issue once the "offshore secrecy" is abolished, with the October 2021 amendments to the Law on state registration of legal entities and individual entrepreneurs, and with the implementation of the Law on the mechanism for the examination of investments of importance for state security, voted in the 2021 autumn session. The latter is aimed at protecting and increasing the transparency of investments made in areas of importance for state security. The Law, in Art. 4, lists those areas and includes, in letter l) "media and audiovisual services", and in Art. 6 para. (1), *inter alia*, establishes that natural and legal persons, including foreign ones, acting in concert, including as a beneficial owner, and residing in jurisdictions that do not implement international standards of transparency or are directly or indirectly controlled by the government of another state, or have already been involved in money laundering and terrorist financing activities, etc., may not make investments in areas of importance for state security.

Until the change in the composition of the AC, the ownership regime was either absent or sporadically appeared on the agenda of public meetings and never constituted a particular concern for the fairness and legality of the financing of the audiovisual sector. From time to time suspicions appear in the public arena that part of the MSPs is financed by party money, dirty money or from offshore areas, but nobody has tried to clear things up. If the suspicions are not just suspicions, such practices must be curbed because they give rise to unfair competition, undermine the rules of the market economy and pose a real economic danger to the law-abiding MSP acting in good faith.

It is not known whether there are dominant positions in the market with regard to commercial advertising or the formation of public opinion. Reasonable suspicions existed and exist, as well as bodies empowered to clarify the situation in the order provided by law. The Competition Council (CC) has never been particularly concerned with the issue and the AC has not shown any interest in finding out the real situation on the market. In May-June 2022, the two regulators had several joint activities to establish a Joint Action Plan on ownership transparency, concentration, dominant position and audience measurement.

After all, the recovery of the situation depends on several factors, including: legal levers to hold MSPs and MSDs accountable for missing or erroneous data in annual activity reports; easy and clear ways of reporting ownership data; the insistence/determination of the AC to obtain accurate and relevant data and its ability to analyze it and generate good statistics to guide further action on the segment; cooperation with the CC to obtain official and accurate information on the subject, without which further action by the AC on the dimension in question can only be incidental or confusing. The proper management of the domain is directly linked to knowing the real situation of the legal ownership regime. The subject must therefore be brought forward and systematically placed on the agenda of the AC's public meetings.

1.3. Institutional and operational capacities of the AC

On June 17, 2022, a new organization chart and staffing limit of the Audiovisual Council was approved¹⁷.

Thus, the limited number of staff of the AC, according to public data, is 58 units: 7 positions of public dignity; 10 public managerial positions; 34 public executive positions; 2 positions for technical service staff; 5 workers.

According to the organization chart, the AC has three profile directorates - Provider Licensing Directorate; Distributor Authorization and Control Directorate; Audiovisual Media Services Control Directorate - as well as eight specialized services and sections, aimed at ensuring the proper functioning of the institution. It is necessary to separately assess the tasks of each structural entity in order to standardize the working rules. Certainly, as the AC will complement the monitoring of linear audiovisual content with monitoring of non-linear media services, content of video sharing platforms, but also internal/external pluralism or thematic monitoring, gender, disinformation or hate speech etc., the respective directorate within the institution will need strengthening. Similarly, the move towards a closer international cooperation on issues of profile will require the strengthening of the respective service within the AC. At the same time, the human resources department could, in addition to recruiting skilled labour force, strengthen the training component, both for AC employees and for MSPs and MSDs.

After the changes in legislation at the end of 2021, two AC member positions were reduced. On the inside, the AC has added two executive positions to the institution's apparatus: a consultant position in the Control and Digitization Directorate and a senior consultant position in the External Relations and European Integration Service.

The staff turnover within the AC in 2021 is as follows:

- Actual number of staff employed at the beginning of the year - 38.
- Number of staff left during the year - 16.
- Number of staff rehired during the year - 1.
- Number of staff employed during the year - 16.
- Actual number of staff employed at the end of the year - 39.

Technical/technological capabilities

The AC has never had sufficient technical/technological capacities to ensure a rhythmic activity of the staff to contribute to the supervision and development of the field. This has always led to dysfunctions. In particular, during election periods, which were frequent in Moldova, the monitoring directorate became overloaded, resulting in delays in the results of monitoring and respectively in the AC's reaction to the results, which reduced the efficiency. The situation remains difficult. If, for example, there is no technological capacity to capture, store and "decipher" the content subject to monitoring, the work is time-consuming and requires human over-effort. On the other hand, the existing technological possibilities of the AC - Internet, computer software, etc. - are also not being used to the required extent. The AC continues to

¹⁷ <http://audiovizual.md/news/o-nou-organigram-consiliului-audiovizualului-al-republicii-moldova-fost-aprobat-n-edin-de-azi>

operate with a lot of paper documents, with stamps and physical presentation at the AC's premises, even though it could be done much more easily, quickly and efficiently using the existing possibilities. The use of technology can no longer be seen as a desire or a privilege, but as a necessity, as an everyday, ordinary and natural tool. Therefore, the digital training of all AC employees as well as the technical/technological equipment come to the fore. It is advisable to plan and ensure the financing of activities over time to meet these needs, which is possible once the AC knows its estimated annual budget.

Transparency of activity

It is a good practice for the AC to broadcast its public meetings live, as well as placing several categories of information of public interest on its website. Such practices should be maintained, expanded and developed. Possibilities include:

- Producing and publishing relevant statistical data;
- Broadening the number of categories of information relevant to the public (e.g. information on cooperation agreements with institutions in the country and abroad; results of fact-finding or exchange visits; annual reports of the MSPs and MSDs or thematic summaries thereof; results of public consultations, including the table of divergences with the relevant arguments; internal audit reports; execution of the budget by stages; execution of the procurement plan, etc.);
- Improving the quality of information, including annual and quarterly activity reports, which can be more compact and consistent if a stable and coherent structure is adopted;
- Greater openness to the public. The AC members so far, with small and short-lived exceptions, have been hermetic and, above all, sickeningly reactive to any kind of criticism. Attempts to convince the public that the AC acts in all situations exactly as it should have done have led to nothing. The professional capabilities of the regulator have not increased, the public could not be convinced and, most important, the field has not evolved in line with public expectations. At the beginning the regulator entrenched a practice worthy of revival, but which was subsequently undeservedly abandoned. It is the presentation and public debate of annual activity reports before they are tabled in the Parliament;
- Conducting consultations on sensitive or difficult issues with all stakeholders.

Openness in communicating with the public and greater transparency in the work of the AC can certainly increase the predictability of actions in each individual situation and consequently increase the trust and authority of the AC, without which the chances of achieving its public mission diminish.

The analysis of the audiovisual media landscape, although not based on all the necessary statistical data, does, however, make it possible to highlight the real problems that exist and to formulate appropriate actions aimed at overcoming them and achieving the aim of the Strategy.

CHAPTER 2. OBJECTIVES AND IMPLEMENTATION ACTIONS

1. Contribution to the improvement of primary legislation.

Measures necessary to achieve the objective:

- Pro-active participation in public consultations on draft laws involving amendments to audiovisual and related media legislation;
- Initiating and holding public debates on proposals to amend audiovisual media legislation;
- Formulating proposals for improving audiovisual media legislation;
- Approving draft normative acts regulating activities in the audiovisual and related fields.

2. Rigorous evaluation of the field.

Measures necessary to achieve the objective:

- Development and approval of the necessary tools for the systematic evaluation of the field able to generate accurate statistical data on: the number and profile of entities supervised by the AC, including non-linear services and video sharing platforms; the number and profile of employees in the audiovisual sector, including number and quality of managers and gender balance; the turnover of each entity; the legal regime of ownership of each entity; the audience of each entity; the state of external and internal pluralism; the profile of audiovisual programmes (volume, language, origin, recipient); the number and monthly volume of audiovisual programmes interpreted in sign language and those intended for people with special needs; the distribution of funding sources in the budget structure of each entity; the volume of commercial advertising accessed by entities on an annual/half-yearly basis; the volume and origin of co-productions; the number and capacity of independent producers; the annual/half-yearly co-production of audiovisual programmes (number/volume) intended for minors and women in relation to the total share of audiovisual programmes; the number of adherents to the codes of conduct etc. ;
- Implementation of the toolkit for the systematic evaluation of the field, generation and storage of statistical data;
- Strengthening the practice of researching the field in cooperation with specialist agencies in the country or abroad.

3. Development of the necessary toolkit for the sector management.

Measures necessary to achieve the objective:

- Drafting and approval of new normative acts to regulate audiovisual commercial communications; to protect the national audiovisual space; to regulate the legal regime of ownership; to ensure gender equality;
- Adjust the existing administrative acts to bring them fully in line with national legislation and international best practices;
- Developing and approving new methodologies and updating/adjusting the existing methodologies for monitoring, at least, the audiovisual pluralism; contents of video-sharing platforms; contents of non-linear services; hate speech and disinformation; dominant situation in the formation of public opinion;
- Implementation of the toolkit.

4. Strengthening the capacity of the AC to manage the sector.

Measures needed to achieve the objective:

- Recruitment, systematic/periodic training and retention of qualified staff, focusing on key segments, able to respond to the rigors of the AC and the goals of the Strategy;
- Revision, update, relaunch, extension of external/internal cooperation agreements;
- Development of technical/technological capacities, with priority to the monitoring sector;
- Development of technical/technological capacities of the website;
- Study and take up of international best practices through documentation visits (use of EPRA and ERGA platforms; participation in actions/events organized in the country or abroad, dedicated to the field);
- Strengthening the practice of public meetings on the road or jointly with regulators from other countries, at least Romania, Ukraine and Bulgaria.
- Strengthening the practice of public meetings outside the city of Chisinau, in the central, southern and northern areas.

5. Increasing the transparency of the regulated entities' activity and own activity.

Measures necessary to achieve the objective:

- Drawing up a nomenclature of categories of information of public interest, which is mandatory to be published on the pages of the MSPs, MSDs and AC;
- Generation of information according to the nomenclature, publication on the web page and regular updating;
- Reviewing the internal structure and improving the content of the activity reports of the MSPs, MSDs and AC to make them easy to read and perceive by the public;
- Codification of the information published by the web pages to allow its quick identification and access;
- Regular organization of public events, including debates on the activity reports of the AC before they are presented in the Parliament.

Expected results:

1. Improved legislation which, if properly implemented, will lead to the achievement of the Strategy's goal.
2. A comprehensive initial and periodic assessment of the real situation in the field allowing AC to accurately intervene in problem areas that disrupt the achievement of the Strategy's goal.
3. Sufficient secondary legislation to provide the AC with the necessary tools for an adequate and predictable management of the domain in line with the Strategy's goal.
4. Strengthened human and technical/technological capabilities that facilitate the path to achieving the Strategy's goal.
5. An increase in the visibility of the AC's work and in the degree of trust of regulated subjects and the public in general towards the AC.

CHAPTER 3. IMPLEMENTATION, MONITORING, EVALUATION AND REPORTING

The Strategy is to be implemented through the Action Plan for 2023-2027. For each action in the Plan, there are established the timeframe, the monitoring/performance indicators reflecting the expected results and the responsible parties. The institutional responsibility for the full implementation of the Strategy lies with the Chair of the AC, who in turn appoints a Monitoring and Evaluation Group (MEG) for the implementation of the Action Plan, led by the Vice-Chair of the AC, and those responsible for the implementation of each objective of the Strategy.

The Strategy's objectives will be reflected in the AC's annual activity plans with the planning of the resources needed to implement them. On expiry of the deadline for each action, the person responsible shall report the outcome to the MEG. In the event of delay or non-implementation of the action, the person responsible shall explain the reasons and make proposals to remedy the situation. The MEG, the Chairperson of the AC or, if necessary, the AC, in an ad hoc working meeting, shall decide on the remedy. The implementation of the Strategy's objectives, at the initiative of the MEG, will be included annually or every six months on the agenda of the public meetings of the AC.

The assessment of each action is made on the basis of two main criteria: (1) compliance with the planned deadlines for the implementation of each action and (2) relevance of the actual impact. Relevance, in this context, means the concrete result that is likely to lead to the achievement of the objective and, ultimately, the purpose of the Strategy. The MEG may set other criteria as necessary.

The external monitoring and evaluation of the implementation of the Strategy may be carried out by a Public Oversight Board, formed at the initiative of the AC, the composition and tasks of which shall be established on the basis of appropriate criteria. The Council could provide alternative reports.

The achievement of the Strategy's objectives will be reflected in a separate section of the annual activity reports of the AC. The achievement of less than 75 percent of the actions foreseen will be qualified as deficient implementation of the Strategy. The AC will hold regular public hearings on how the Strategy is being implemented and a final public hearing after the end of the Strategy term.

FINAL PROVISIONS

The Strategy is adopted in a public meeting after the initiation of public consultations on the document, being published on the website of the AC and in the Official Gazette of the Republic of Moldova. In order to make the work of the AC more efficient, the vision, strategic directions and activities of the Strategy will be periodically reviewed and redefined according to the needs of the authority. Amendments are adopted by decision of the AC and the text published on the webpage - updated.

The Plan (Annex No. 1) is a fundamental document designed to ensure continuity and professionalism in the work of the audiovisual regulator, especially as the term of office of the Council members is regulated for a fixed period. At the end of the Strategy's implementation period, the AC shall draw up and adopt a new Strategy, respecting the principle of continuity in achieving its purpose.

ACTION PLAN TO IMPLEMENT THE STRATEGY

Action Plan					
Objective 1. Contribution to the improvement of primary legislation					
	Actions	Deadline	Performance indicators	Costs	In charge
1.1.	Pro-active participation in public consultations on completion/adjustment of audiovisual and related legislation	All period	<ul style="list-style-type: none"> ✓ Number of participations; ✓ status of the participant (speaker/moderator). 	-	Chair of AC, MEG
1.2.	Initiating and conducting public debates on proposals to amend the audiovisual legislation	All period	<ul style="list-style-type: none"> ✓ Number of debates; ✓ outcome/impact of debates. 	Provided in the AC budget	Chair of AC, MEG
1.3.	Formulating proposals to improve the audiovisual legislation	All period	<ul style="list-style-type: none"> ✓ Number of proposals made; ✓ number of proposals to amend the law adopted by the Parliament; ✓ quality of proposals (in line with international standards). 	-	Chair of AC, MEG
1.4.	Approval of draft normative acts regulating the activities in the audiovisual and related fields	All period	<ul style="list-style-type: none"> ✓ Number of opinions delivered; ✓ quality of opinions (qualitative and quantitative indices). 	-	Chair of AC, MEG
Objective 2. Rigorous evaluation of the field					
2.1.	Development and approval of the necessary toolkit for the systematic evaluation of the field capable of generating statistically accurate data on: <ul style="list-style-type: none"> a) the number and profile of entities supervised by the AC, including non-linear services and video sharing platforms; b) the number and profile of employees in the audiovisual sector, including the number and quality of managers and gender balance; c) the turnover of each entity; d) the legal regime of ownership of each entity; e) the audience of each entity; f) the profile of audiovisual programmes (volume, language, origin, recipient), the number and monthly volume of audiovisual programmes interpreted in sign language and those intended for people with special needs; 	June 2023	<ul style="list-style-type: none"> ✓ Approved toolkit; ✓ quality of the toolkit a) - l); ✓ tools (registers, questionnaires, tables, methodologies, etc.) developed and approved; ✓ degree of applicability; ✓ ease of application. 	-	MEG

	g) annual/monthly share of audiovisual programmes (number/volume) intended for minors and women in relation to the total share of audiovisual programmes; h) the distribution of funding sources within the budget structure of each entity; i) the volume of commercial advertising accessed by the entities on an annual/half-yearly basis; j) the volume and origin of co-productions; k) the number of adherents to codes of conduct; l) the number and capacity of independent producers;				
2.2.	Implementation of the systematic sector assessment toolkit, generation and storage of statistical data	Since 2024, then - annually updated	✓ Number of documents applied; ✓ the amount of accurate and relevant statistical data; ✓ frequency of data updating.	-	Chair of AC, MEG
2.3.	Strengthening the practice of researching the sector in cooperation with specialist agencies in the country or abroad	Since 2025	✓ Number of researches (surveys, studies, expertise etc.); ✓ quality of research; ✓ applicability to AC (what they are for).	Sources of supply	Chair of AC

Objective 3. Development of the necessary toolkit for the sector management

3.1.	Drafting and approval of new administrative normative acts: – for the regulation of audiovisual commercial communications (in accordance with the provisions of the new Law on Advertising); – for the protection of the national audiovisual space; – for the regulation of the legal regime of ownership; – to ensure gender equality.	2023	✓ Number of approved normative acts; ✓ quality of acts.	Partially, sources of supply	Chair of AC, MEG
3.2.	Adjusting existing normative acts to bring them fully in line with national legislation and international best practices	2023	✓ Number of adjusted acts; ✓ quality of acts.	-	MEG
3.3.	Developing and approving new methodologies and updating/adjusting the existing methodologies for monitoring, at least, external and internal pluralism; content of video-sharing platforms; content of non-linear services; hate speech and disinformation; the dominant situation in the formation of public opinion	2023	✓ Number of methodologies; ✓ quality of methodologies.	-	Chair of AC, MEG
3.4.	Implementation of the toolkit	Since 2024	✓ Number and range of monitoring; ✓ quality of monitoring; ✓ monitoring results;	-	Chair of AC, MEG

			✓ number of decisions of the AC annulled/maintained following the conduct of the legality review in court.		
Objective 4. Strengthening the capacity of the AC to manage the sector:					
4.1.	Recruitment, systematic/periodic training and retention of qualified staff, focusing on key segments, able to respond to the rigours of the AC and the goals of the Strategy	2023	✓ Degree of completion of functions; ✓ degree of professionalisation of employees; ✓ number of trainings/trainees; ✓ impact of training, ✓ degree of staff turnover.	Partially, sources of supply	Chair of AC, Staff Directorate
4.2.	Revision, update, relaunch, extension of external/internal cooperation agreements	Since 2023	✓ Number of agreements; ✓ relevance of agreements, ✓ effect/impact of agreements.	-	Chair of AC
4.3.	Development of technical/technological capacities, with priority to the monitoring sector	2023	✓ Sufficient capacity in the monitoring sector; ✓ efficiency of capacity utilisation in the monitoring sector; ✓ technical capacities, including software/programs needed by each employee; ✓ efficiency of use of software/programs.	Budgetary sources, sources of supply	Chair of AC, MEG
4.4.	Development of technical/technological capacities of the website	Permanently	✓ Developed capabilities; ✓ ease of use (number of clicks to data).	-	MEG
4.5.	Study and take up of international best practices through documentation visits; using the EPRA and ERGA platforms; participating in actions/events organized in the country or abroad, dedicated to the field	All period	✓ Number of profile activities; ✓ activities outcome.	-	Chair of AC
4.6.	Strengthening the practice of public meetings on the road or jointly with regulators from other countries	Since 2023	✓ Number of meetings; ✓ relevance of meetings; ✓ meetings outcome.	Budgetary sources, sources of supply	Chair of AC
Objective 5. Increasing the transparency of the regulated entities' activity and own activity					
5.1.	Development of a nomenclature of categories of mandatory public interest information to be published on the MSPs, MSDs and AC pages (including the results of public consultations)	March 2023	✓ Approved document; ✓ document quality.	-	Chair of AC
5.2.	Generation of information according to the nomenclature, publication on the website and regular updating	All period, from June 2023	✓ Information volume; ✓ information quality; ✓ published and updated information.	-	MEG

5.3.	Revision of the internal structure and improvement of the content of the activity reports of the MSP, MSD and AC, making them easy to read and perceive by the public	October 2023, Starting with reports for 2023	✓ Revised structure and communicated to stakeholders; ✓ reports quality.	-	MEG
5.4.	Improving mechanisms for identifying and quickly accessing information published on the AC website(s)	Since January 2023	✓ Time needed for identification; ✓ time needed to access the information sought.	-	MEG
5.5.	Regular organization of public events, including debates on the activity reports of the AC until they are presented in the Parliament	Since 2023	✓ Number of organized events; ✓ relevance of events; ✓ events outcome.	Partially, sources of supply	Chair of AC, MEG