



MOLDOVA PARTNERSHIPS FOR SUSTAINABLE CIVIL SOCIETY

# MONITORING AND EVALUATING

the implementation of the EU-RM association agreement  
provisions on mass-media segment

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## Monitoring and evaluating the implementation of the EU - RM Association Agreement provisions on mass-media segment.

### ABBREVIATIONS

- AA** - Association Agreement
- API** - Association of Independent Press
- NAP** - National Action Plan
- RM** – Republic of Moldova
- EU** - European Union

This report, being the first of the four reports to be issued on a quarterly basis within the framework of a project of API, includes a recollection of the accomplishment of NAP for the implementation of EU-RM AA during the years 2014-2016, and an assessment of the fulfilment of actions planned for March through May months this year, which are included in the current NAP foreseen for the years 2017 - 2019<sup>1</sup>, with reference to the media sector.

The report represents a monitoring and an evaluation of the degree of implementing the EU - RM AA provisions on mass-media segment in compliance with the enclosed methodology.

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<sup>1</sup> <http://www.infoeuropa.md/rm-privind-ue/planul-national-de-actiuni-pentru-implementarea-acordului-de-asociere-republica-moldova-uniunea-europeana-in-perioada-2017-2019/>

# I. Methodology for monitoring and evaluating the implementation of the EU – RM Association Agreement provisions on mass-media segment

## INTRODUCTION

The monitoring of the implementation of EU – RM Association Agreement provisions on mass-media segment, initiated by API, is necessary and appropriate for several reasons, including:

- It stands for an instrument to raise the awareness of stakeholders involved in mass-media system reform in accordance with European standards and best practices;
- It determines the degree of fulfilment of commitments which RM took on for the implementation of AA on the media segment;
- It provides additional data / results to the official ones, which, upon need, can be useful in order to review, supplement, adjust the commitments and expedite the reforms;
- It maintains the manner of fulfilling the commitments in the public light, together with the stage and degree of their achievement.

Plenty of internal and external monitoring exercises have been conducted so far, with reference to the accomplishment of AA provisions on the media segment, and the results have been presented publicly. Without any exception, all monitoring activities have revealed a chronic delay in the commitments' fulfilment, on the other hand, and an insignificant impact from the accomplished commitments for the improvement of mass-media condition.

The monitoring conducted by API on the grounds of a properly-drafted methodology is aimed to display a comprehensive evaluation of the state-of-play in this domain. The authors of the monitoring and methodology set out from the understanding that the implementation of AA provisions on the media segment must result in an independent, pluralist, qualitative mass-media, which operate under such circumstances as freedom, transparency, and sound competition environment, as well as act to the benefit of citizens and society. Consequently, the actions devised for each stage should be targeted at the expected result – a truly democratic mass-media. Hence, the performance indicator for each planned and fulfilled action must logically coincide with its real impact on mass-media condition.

The monitoring, however, just as the NAP, does not stand for a goal in itself, but is rather a way of improving the overall situation of Moldovan mass-media.

## THE PURPOSE OF MONITORING:

The monitoring aims to determine the extent to which the implementation of NAP actions brings closer the pursued objectives to the AA provisions and, depending on results, to issue recommendations for decision makers. The implementation of AA provisions must ultimately ensure a real development of mass-media on democratic principles.

## THE OBJECT OF MONITORING:

- The number and relevance of actions included in the NAP
- The manner and degree of accomplishment
- The real impact after completion / non-completion of actions undertaken

## PERIOD OF MONITORING:

March 2017 – February 2018 (four stages, each covering three months)

## THE MONITORING METHODOLOGY:

The methodology comprises two basic indicators included in a monitoring sheet: a quantitative one and a qualitative one. At the initial stage of monitoring, the two indicators cumulatively contain four statements each, with three possible answers. Each answer corresponds to a specific score on a three-to-one scale, „three” meaning “the best” and “one” – “the worst” (see please the sheet below).

### *Monitoring sheet*

Indicators	Statements	Score
<b>Quantitative</b>		
<b>1. Sufficiency of actions planned and performed</b>	1.1. The actions planned for the implementation of the AA provisions are sufficient, satisfactory, insufficient	<b>3,2,1</b>
	1.2. The actions planned for the reporting period are sufficient, satisfactory, insufficient	<b>3,2,1</b>
	1.3. The actions planned for the reporting period are accomplished, partially accomplished, non-accomplished	<b>3,2,1</b>
	1.4. Unplanned but timely actions for the reporting period are accomplished, partially accomplished, non-accomplished	<b>3,2,1</b>
<b>Qualitative</b>		
<b>2. Actions: conformity, relevance, accomplishment, impact</b>	2.1. The actions planned and the AA provisions are fully compliant, partially compliant, non-compliant	<b>3,2,1</b>
	2.2. The actions planned for the reporting period are relevant, partially relevant, irrelevant	<b>3,2,1</b>
	2.3. The actions planned / unplanned for the reporting period are accomplished properly, partially properly, improperly	<b>3,2,1</b>
	2.4. The actions planned / unplanned and accomplished during the reporting period have the expected impact, the partial-to-expected impact, the null impact	<b>3,2,1</b>
<b>Total score</b>		
<b>Indicator of NAP achievement</b>		

## QUANTITATIVE ANALYSIS:

Quantitative analysis refers to the planned NAP actions for the implementation of AA provisions; actions planned to be accomplished during the reporting period; actions planned for the reporting period and the degree of their accomplishment; unplanned but timely actions and the degree of their accomplishment.

## QUALITATIVE ANALYSIS:

Qualitative analysis refers to the compliance of NAP actions with AA provisions, and the relevance of the actions for the real pursued goal; the modality of actions' fulfilment in order to achieve the real pursued goal; the real impact of actions upon the fulfilment of pursued goal.

## MONITORING RESULTS:

The monitoring results are based on a pertinent quantitative and qualitative analysis of the following: the actions undertaken through NAP, the modality of their accomplishment and the real impact upon mass-media condition from the fulfilled actions. As soon as the quantitative and qualitative analyses are finalised, the monitoring sheet is filled in. Finally, a numerical value shall be assigned to the degree of NAP implementation for the monitoring period, which is obtained by summing up the points given to each statement. Another numerical value can also be deduced: the total score is divided by the number of statements. In both cases, the result would generally serve as an indicator of NAP implementation. Since four stages of monitoring are foreseen, it will be possible to compare the indicators among each other beginning with the second stage, with a view to identify the progress / regress in NAP implementation.

At each stage, the authors of monitoring may involve stakeholders, such as broadcasters, regulatory authority, specialised parliamentary committee, civil society etc., in the qualitative and quantitative analyses, and, respectively, in filling in the monitoring sheet. In such cases, the necessary clarifications shall be made and the monitoring result will represent a numerical value equal to the average score obtained by dividing the total score to the number of filled-in monitoring sheets.

## INTERPRETATION OF RESULTS:

*(Score)*

17-24 – NAP implementation occurs in a dynamic way that should be maintained

9-16 – NAP implementation occurs at a pace that requires acceleration

1-8 – NAP implementation is stagnating

## RESOLUTIONS

The methodology allows for the adjustment of Monitoring fiche content in terms of the goal pursued at each stage. Thus, certain statements deemed irrelevant may be excluded and/or replaced with others.

The methodology provides for the possibility to make an overall assessment of NAP implementation process, of each action or group of actions. The monitoring results may suggest recommendations and solutions to improve the situation signalled during specific stages of action implementation, meant to ensure the development of democratic mass-media.

# II. Recollection of the accomplishment of NAP for the implementation of EU-RM AA during the years 2014-2016 on the media segment

## OVERVIEW

The provisions of the Association Agreement between the European Union and Republic of Moldova are the result of 15 rounds of negotiations between the parties, which commenced in 2010 and were completed in 2013 when the document was initialled in Vilnius. Afterwards, it

was signed (on 27.06.2014), ratified and provisionally enforced as of 1.09.2014, entering into force on 1 July 2016. The agreement sets the framework for cooperation between our country and the EU on all major segments, without offering Republic of Moldova the prospects of adhering to the organization. From the 465 articles of the document, the mass-media sector is referred to in four such articles: 130, 131, 132, 133 (Chapter 25 of Title IV, entitled *Cooperation in the field of culture, audio-visual policy and mass-media*). Additionally, two provisions are detailed in Annex XIV regarding legislation: the first addresses the adjustment of Moldovan legislation to provisions of *Directive 2007/65/EC of the European Parliament and of the Council of December 11, 2007, amending Directive 89/552/EEC on trans-border television*. It is weird that the text of the Agreement makes reference to these documents, when the two have been earlier codified in 2010 in a third Directive, entitled *Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive)*. Meanwhile, following the signing and ratification of AA, the European Commission proposed to amend the Directive of 2010 given the significant and rapid developments in the broadcasting landscape. Under any circumstances, the adjustments to Moldovan legislation are to be implemented in two years since the coming into effect of the Association Agreement, i.e. until 1 July 2018. The second provision refers to the *2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions*, which was ratified by our country in 2006, without providing for any timelines for implementation.

On June 26, 2014, the parties adopt the Association Agenda between Republic of Moldova and the European Union, which formulates a list of priorities for years 2014-2016 with a view to prepare the implementation of AA. This list, in its *Basic human rights and freedoms* column, in sub-point entitled *Freedom of expression*, specifies two universal priorities: 1) Continue the work to ensure freedom of expression and mass-media independence in accordance with Council of Europe recommendations; and 2) Establish a permanent dialogue to exchange best practices on mass-media freedom, mass-media pluralism, mass-media exculpation of defamation, protection of journalists' sources and cultural diversity issues of mass-media. The first commitment could have been complemented with recommendations issued by other international organizations, including OSCE and European Union, which had been repeatedly worded out for the media sector in our country. The second one is also vague and general, as Republic of Moldova has been part of European Union's Neighbourhood Policy since 2004, it had an Action Plan with it and has also been part of the EU's Eastern Partnership established in 2008, and for a period Republic of Moldova was viewed as the "success story" of such a cooperation format. Therefore, the provision meant to "Establish a permanent dialogue" might be at least outdated. In the same document, at point 2.4. *Economic cooperation*, there appears the column *Audio-visual and mass-media policy*, which states that: *Parties shall cooperate to prepare the implementation of the EU acquis mentioned in the relevant annexes to the foreseen Association Agreement, and shall support Republic of Moldova in:* • its activity targeted at the adoption of broadcasting legislation in line with European standards, inter alia via exchange of opinions/views on audio-visual policy, relevant international standards, including cooperation in the fight against racism and xenophobia; • building the capacity and independence of mass-media regulatory authorities/bodies and, in particular, investing efforts in order to ensure the full independence of Broadcasting Coordination Council. • amending the legislation to guarantee that the public financial support for mass-media would be allocated in accordance with strict objective criteria that are equally applicable to all media entities<sup>2</sup>. These priorities should have been reflected in the National Action Plan for the implementation of the EU-Moldova Association Agreement 2014-2016, approved on 7 October 2014 (Government Decision no. 808), and the actions foreseen for each priority/goal should have been fulfilled until 31 December 2016. Nevertheless, this is how and what happened in this period:

2 <http://www.mfa.gov.md/img/docs/Agenda-de-Asociere-RO.pdf>

## QUANTITATIVE ANALYSIS:

NAP on mass-media segment is presented in the table below:

	Provisions of the AA	National Action Plan 2014-2016	Degree of implementation reported by authorities	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
131	(1) The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television.	1. Approve the public policy for the development of creative and cultural industries in Republic of Moldova		Ministry of Culture, Ministry of Economy, State Agency for Intellectual Property	2016	Within the limits of budgetary means and extra-budgetary funds
	(2) Cooperation could include, inter alia, the issue of the training of journalists and other media professionals, as well as support to the media, so as to reinforce their independence, professionalism and links with EU media in compliance with European standards, including standards of the Council of Europe (CoE) and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.	2. Harmonize national legislation to stimulate the dissemination of "European works"	Decisions, recommendations of BCC	Broadcasting Coordination Council	2015-2016	Within the limits of budgetary means and extra-budgetary funds
		3. Identify mechanisms to promote the broadcasting of European channels/stations on Moldovan audio-visual market	BCC recommendations BCC collaboration with EU partners	Broadcasting Coordination Council	2015-2016	Within the limits of budgetary means and extra-budgetary funds

	Provisions of the AA	National Action Plan 2014-2016	Degree of implementation reported by authorities	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
		4. Establish the National Cinematography Centre and institutionalise the mechanism for supporting cinema co-productions	It was not created	Broadcasting Coordination Council	Quarter IV, 2015	
132	The Parties shall concentrate their cooperation on a number of fields:					
	(C) policy dialogue on cultural policy and audio-visual policy					
	(E) Cooperation in the field of media	5. Examine Republic of Moldova's possibility to adhere to the European Audio-visual Observatory	The adherence has been postponed for an undetermined period, due to lack of money	Broadcasting Coordination Council, Ministry of Information Technology and Communication, Ministry of Foreign Affairs and European Integration	2015	Within the limits of budgetary means and extra-budgetary funds
		6. Conduct surveillance, by regular monitoring, of the social-political balance, impartiality and objectivity of programs' content	Monitoring conducted Sanctions applied	Broadcasting Coordination Council	2014-2016	Within the limits of budgetary means and extra-budgetary funds
		7. Develop the Conception for coverage of the electoral campaign	Conception developed, approved and entered into force	Broadcasting Coordination Council	Quarter III, 2014 – semester II of 2015 (period of local elections)	Within the limits of budgetary means and extra-budgetary funds

Provisions of the AA	National Action Plan 2014-2016	Degree of implementation reported by authorities	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
	<b>8.</b> Monitor the election campaign coverage by broadcasters as regards their compliance with social and political balance, impartiality and objectivity	Monitoring conducted	Broadcasting Coordination Council	Quarter IV, 2014	Within the limits of budgetary means and extra-budgetary funds
	<b>9.</b> Develop the Guidelines on the regulatory framework in the audio-visual sector in Moldova	Guidelines prepared by BCC	Broadcasting Coordination Council	Quarter IV, 2014	Within the limits of budgetary means and extra-budgetary funds
	<b>10.</b> Approve the amendments for the completion of Broadcasters' Code of Conduct with the gender dimension	Amendments approved	Broadcasting Coordination Council	Quarter III, 2014 – Quarter IV, 2015	Within the limits of budgetary means
	<b>11.</b> Include gender dimension in the monitoring methodologies (for the social and political balance, impartiality and objectivity)	Indicators included in the methodologies	Broadcasting Coordination Council	2014-2016	Within the limits of budgetary means and extra-budgetary funds
	<b>12.</b> Study the European countries' practices to ensure and improve the access of disabled people to program services	BCC decisions	Broadcasting Coordination Council	2014-2016	Within the limits of budgetary means and extra-budgetary funds

Provisions of the AA	National Action Plan 2014-2016	Degree of implementation reported by authorities	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
	<b>13.</b> Monitor the broadcasters' compliance with ensuring the access to information for disabled people	Monitoring conducted, Sanctions applied, BCC recommendations, Regulation on the access for hearing-impaired and sight-impaired persons to broadcasting program services – approved	Broadcasting Coordination Council	Quarter III, 2014 – Quarter IV, 2016	Within the limits of budgetary means and extra-budgetary funds
	<b>14.</b> Identify instruments to stimulate and promote media products with a view to ensure the access to information in the languages of co-inhabiting ethnic groups	Contests for selecting projects and programs addressing public interest issues, announced by BCC	Broadcasting Coordination Council	2014-2016	Within the limits of budgetary means and extra-budgetary funds
	<b>15.</b> Launch a new website of BCC to ensure decisional transparency and streamline the communication with the public	Website launched	Broadcasting Coordination Council	Quarter IV, 2014	Within the limits of budgetary means and extra-budgetary funds
	<b>16.</b> Draft proposals for supplementing and amending the Broadcasting Code in order to harmonize the national legislation with the European one, especially with Media Services Directive 2010/13/EU	Amendment of the Broadcasting Code	Broadcasting Coordination Council	Quarter IV, 2014	Within the limits of budgetary means and extra-budgetary funds

	Provisions of the AA	National Action Plan 2014-2016	Degree of implementation reported by authorities	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
		17. Organize regional seminars with holders of broadcasting licenses and retransmission authorizations, with a view to address issues related to the implementation of broadcasting legislation, execution of decisions issued by Broadcasting Coordination Council, etc.	Seminars organized	Broadcasting Coordination Council	2014-2016	Within the limits of budgetary means and extra-budgetary funds
133	The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIV to this Agreement according to the provisions of that Annex.					
	Annex XIV to the Agreement: <b>Directive 2010/13/EU</b> of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive).	18. Develop and adopt proposals for amending and supplementing the Broadcasting Code in order to harmonize legislation with Directive 2010/13 / EU of the European Parliament and of the Council of 10 March 2010 on the coordination certain provisions laid down by laws, regulations or administrative action in member states concerning the provision of audio-visual media services (Audio-visual Media Services Directive)	Changing Broadcasting Code <sup>3</sup>	Broadcasting Coordination Council	2014-2015	Within the limits of budgetary means and extra-budgetary funds

3 <https://monitorizare.gov.md/reports/Raport%20PNAAA.html>

**STATEMENT 1.1.** – “The actions planned for the implementation of the AA provisions are sufficient, satisfactory, insufficient” and **STATEMENT 1.2.** – “The actions planned for the reporting period (2014-2016) are sufficient, satisfactory, insufficient” are credited with 1 point and they signify the insufficiency and/or lack of planned actions for the reference period.

**RATIONALE:** From the 39 actions foreseen to implement the provisions of Chapter 25 – *Cooperation in the field of culture, audio-visual policy and mass-media*, less than half (18) refer to the media sector, and only one action addresses very vaguely other segments of mass-media, except broadcasting. In addition, BCC is regarded as the responsible institution in charge of all actions’ implementation, even if BCC regulates only the audio-visual sector, and not the entire mass-media domain.

In plus, the only action envisaged to implement provision 131 (1): *The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television* relies in the following: „Approve the public policy for the development of creative and cultural industries in Republic of Moldova”, and the institutions responsible for implementation do not include any institution from the broadcasting sector. Nevertheless, the authorities present as a fulfilled action the fact that BCC, for instance, selected several broadcasting programs on a contest basis in 2014, 2015 and 2016, with a view to provide financial resources for production from Broadcasters Support Fund (decisions no. 33/192 of 05.12.2016, no. 27/126 of 14.07.2015, no. 192 of December 3, 2013). The contest was intended for regional/local broadcasters and, in the opinion of the regulatory authority, corresponded to the activity foreseen in Article 131 (1) AA<sup>4</sup>. It is unclear how this action is related to the provision regarding cooperation (between Republic of Moldova and the EU) in order to promote the audio-visual industries in Europe and, especially, co-productions. Most probably, by stipulating *Contest-winning audio-visual programs shall be free to listen for diaspora* (p.11)<sup>5</sup>, BCC meant the European-level dialogue.

As regards provision 131 (2), three actions were planned: *Harmonize national legislation to stimulate the dissemination of “European works”*; *Identify mechanisms to promote the broadcasting of European channels/stations on Moldovan audio-visual market* and *Establish the National Cinematography Centre and institutionalise the mechanism for supporting cinema co-productions*. The issue of training the journalists and other professionals in the field is not addressed, and no actions are foreseen to provide support for reinforcing their independence and professionalism, as well as for establishing links with EU mass-media, actions covering all media segments.

Provision 132 had to be implemented by means of 13 actions, all referring to point (e) – *Cooperation in the field of mass-media*, and none to point (c) – *Political dialogue on cultural and audio-visual policy*. From the 13 actions, more than a half relate, in fact, to the duties of BCC in accordance with the legislation.

Provision 133 stipulated a single action – *Develop and adopt proposals for amending and supplementing the Broadcasting Code in order to harmonize legislation with Directive 2010/13 / EU of the European Parliament and of the Council of 10 March 2010 on the coordination certain provisions laid down by laws, regulations or administrative action in member states concerning the provision of audio-visual media services (Audio-visual Media Services Directive)*. Considering the timeframe for implementation and the fact that EU plans to amend the *Audio-visual Media Services Directive*, as well as bearing in mind the evolving rhythm in the field, „Develop and adopt proposals for amendment” are clearly insufficient actions.

4 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=367475>

5 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=368377>

**STATEMENT 1.3.** – “The actions planned for the reporting period are accomplished, partially accomplished, non-accomplished”, is credited with two points and it signifies partially accomplished actions.

**RATIONALE:** The authorities present the following as achievements of AA provisions and NAP: BCC’s proposals, decisions or recommendations with reference to various topics (e.g. by BCC decision no.167 of 14.11.14, it forwarded the proposal: “(2) Beginning with July 1, 2015, at least 50% of the program services of broadcasters shall be European works, and at least half of them shall be broadcast during prime time”); discussions conducted with a Romanian broadcaster and the Romanian broadcasting regulatory authority on the possibility to re-transmit several TV channels in Republic of Moldova, or the fact that *BCC is constantly collaborating with mass-media regulatory authorities in European countries, as well as identification of broadcasting / re-transmission sources of European works / stations on the territory of Republic of Moldova.* Moreover, the following statement is regarded as implementation: Article 3 of the Broadcasting Code stipulates the following: (7) *Since the date of Republic of Moldova’s adherence to European Union, the broadcasters under the jurisdiction of Republic of Moldova shall devote not less than 51% of their emission time to European works, excluding the time dedicated to news programs, sports events, entertainment shows, advertising, teletext and teleshopping services.* (8) *Until the date of adherence, a significant proportion of time shall be reserved to national and own audio-visual works. Bearing in mind the broadcaster’s informational, educational, cultural and entertainment responsibilities towards the public, this proportion should be achieved progressively, according to provisions of Article 11. At the same time, while issuing broadcasting licenses, BCC shall recommend to broadcasters to disseminate audio-visual works from European countries.*

We recall that the Association Agreement does not provide our country with EU membership prospects, and the Broadcasting Code is currently in the process of total amendment. Other actions, such as *Establish the National Cinematography Centre and institutionalise the mechanism for supporting cinema co-productions* or *Examine Republic of Moldova’s possibility to adhere to the European Audio-visual Observatory*, were partially fulfilled. In December 2015, the National Cinematography Centre was established and, one year later, the Centre signed its first cooperation agreement with the similar institution in Romania. Other actions are related to BCC’s legal obligations (e.g. monitor the programs, develop the Conception for coverage of the elections, monitor the election coverage, etc.). Also, the action for creating a new version of BCC’s website, whose importance for NAP is questionable, was partially accomplished. However, CCA claims that *on October 13, 2014, the Broadcasting Coordination Council released a new version of its webpage: www.cca.md. The new webpage contains several new sections, and the information is structured in a way that the program consumer can access it simply and quickly. Thus, the new columns will provide more detailed information on the activity conducted by both the broadcasting regulatory authority and the service distributors under the jurisdiction of Republic of Moldova*, but, in reality, the information on the authority’s website is difficult to access and the updating leaves much to desire.

**STATEMENT 1.4.** – “Unplanned but timely actions for the reporting period are accomplished, partially accomplished, non-accomplished”, is credited with two points and signifies the partial implementation of unplanned, but necessary actions.

**RATIONALE:** Several actions, which are not expressly stipulated in the NAP, were fulfilled. One such action refers to Law no. 28 of March 5, 2015 on amendment and completion of the Broadcasting Code of RM no. 260-XVI of July 27, 2006, in effect as of 1 November 2015. The law obliged mass-media owners to submit a declaration on their own accountability with regard to their possessions in the field. The second action relates to the amendment and completion of the Broadcasting Code by Law 167 of July 31, 2015, which regulates the transition from analogue terrestrial television to the digital system. The adoption of these laws, however, did not bring added value to local media system development. In plus, the second action falls

under the provisions of another chapter of AA (see the Note below). The following issues come into the same order of ideas: amendment and completion of Art. 66 of the Broadcasting Code on returning to maximum two broadcasting licenses that a media owner can own; amendment of Art. 71 of the Contravention Code, which foresees ten times bigger fines for violating the Law on access to information; or approval by BCC of the Strategy for covering the national territory with audiovisual program services (2016-2018).

**Note:** NAP also stipulates four actions whose implementation is the responsibility of BCC. They relate to Article 102 of AA Chapter 18 – *Information Society*. The Article stipulates the following: *The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XXVIII-B to this Agreement, according to the provisions of that Annex. Annex: Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community. Enforcement of the following provisions of Directive: – adopt a policy and regulation to ensure the harmonised availability and efficient use of radio frequency spectrum.*

The actions foreseen for the enforcement of this Article were: 1) *Draft and approve the Regulation on the procedure for issuing licenses for TV program services on the use of multiplex*; 2) *Organize contests to issue emission licenses for TV program services on the use of multiplex*; 3) *Implement the Program on transition from analogue terrestrial television to digital terrestrial one, produced by the Ministry of Information Technology and Communications in compliance with the competence field of Broadcasting Coordination Council*; 4) *Organize and conduct public awareness campaigns on digital terrestrial television and consumer rights in the process of transition to digital terrestrial television*. The actions were partially accomplished with a big delay.

Thus, the answers to the statements regarding the quantitative analysis of NAP implementation receive a number of 6 points out of maximum 12.

## QUALITATIVE ANALYSIS:

**STATEMENT 2.1.** – “The actions planned and the AA provisions are fully compliant, partially compliant, non-compliant” is credited with two points and denotes a partial compliance.

**RATIONALE:** Provision 131 (1) is ignored on the media segment in the NAP, but at the reporting stage, the authorities present the allocation of financial resources for production of shows by regional/local broadcasters as accomplishment. None of the variants complies with AA provisions, which imply, in particular, the dialogue between the parties, i.e. European Union and Republic of Moldova.

Although being important and timely, the three actions intended to achieve provision 131 (2) do not cover a basic need for mass-media in Moldova – the support for reinforcing independence and professionalism, as well as for establishing links with EU mass-media in compliance with European standards. In addition, the most serious discrepancy is noticed in the uncovering of other media segments except broadcasting.

The next 13 actions planned for the implementation of provision 132 should be compliant with paragraph (e) *Cooperation in the field of media*. However, 10 of these actions relate to BCC

obligations established by law, and one action, which would have been significantly compliant with the wording *Parties shall concentrate their cooperation in a number of fields* and, namely, aimed at joining the European Audiovisual Observatory, was postponed for an undetermined period, due to lack of money.

The single action foreseen for provision 133 is insufficient for at least two reasons: the Directive referred to is no longer actual for the EU and the developments at this chapter in the Community area, as well as in the country, should be followed closely; AA stimulates as well other EU legal acts to which our legislation should be adjusted, i.e. documents covering other issues except the audiovisual.

**STATEMENT 2.2.** – “The actions planned for the reporting period are relevant, partially relevant, irrelevant”, is credited with two points and present partial relevance.

**RATIONALE:** Monopolizing the NAP space with actions targeting at the audiovisual sector, as well as filling it in with more than 50% commitments that are already duties of BCC, makes the actions become partially relevant up to totally irrelevant.

**STATEMENT 2.3.** – “The actions planned / unplanned for the reporting period are accomplished properly, partially properly, improperly”, is credited with 2 points and corresponds to the “partially properly” answer.

**RATIONALE:** Having regard to the partial consistency of NAP actions with AA provisions, the delayed achievement of certain actions, failure to accomplish others, lack of consistency and coherence between the actions, the chaotic fulfillment of actions, particularly with regard to the legal framework, we cannot state that planned and especially unplanned actions, or those achieved as a result of pressure from the European community, were properly accomplished.

**STATEMENT 2.4.** – “The actions planned / unplanned and accomplished during the reporting period have the expected impact, the partial-to-expected impact, the null impact”, is credited with 2 points and corresponds to “the partial-to-expected impact” answer.

**RATIONALE:** The impact of legal provisions, for example (number of licenses held by an owner, transparency of ownership, etc.), should be analyzed in terms of the contribution to the development of a democratic, pluralist and professional media system. For the time being, neither the fact that media owners are known, nor the restriction in the number of licenses have changed things essentially. In addition, the law does not refer to the online segment, which is a serious gap, favoring, on the one hand, the massive concentration of ownership on this segment, and on the other hand, perpetuating phenomena such as manipulation, misinformation, falsehoods, plagiarism, etc. Other actions, either unaccomplished (adherence to the European Audiovisual Observatory) or related to BCC duties (monitoring, methodologies, conceptions for coverage of elections), had a null and partial impact, given the fact that BCC is too late in applying sanctions and fails to master the quality of audiovisual content, although it has permanent and continuous evidence on derogations from the legal framework. BCC’s website, being as well an action for AA implementation, has not been achieved and maintained as the institution reports and information is often more easily accessible through search engines. The impact of harmonizing national legislation with the EU one will be measured and analyzed when such harmonization actually takes place.

Thus, the answers to the statements regarding the qualitative analysis of NAP implementation receive a number of 8 points out of maximum 12.

Quantitative and qualitative assessments of the NAP and the implementation of the activities planned for the years 2014-2016 cumulate 14 points. According to the methodology, such a state-of-play shows that NAP implementation during 2014-2016 went at a pace that required acceleration.

### III. Evaluation of actions foreseen in NAP on mass-media segment for implementation of EU-RM AA during the period 2017-2019.<sup>6</sup>

This chapter presents the actions planned to be achieved, in general, and those planned for the period March to May 2017, in particular.

#### QUANTITATIVE ANALYSIS:

NAP on mass-media segment is presented in the table below.

	Provisions of the AA	National Action Plan	Performance indicator	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
131	(1) The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television.					
	(2) Cooperation could include, inter alia, the issue of the training of journalists and other media professionals, as well as support to the media, so as to reinforce their independence, professionalism and links with EU media in compliance with European standards, including standards of the Council of Europe (CoE) and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions.	12. Organize and conduct training activities for journalists on observance of human rights in audio-visual services	Trainings conducted and number of people trained	Broadcasting Coordination Council	Quarter IV 2017 Quarter II 2019	State Budget (Broadcasters Support Fund)

<sup>6</sup> <http://www.infoeuropa.md/rm-privind-ue/planul-national-de-actiuni-pentru-implementarea-acordului-de-asociere-republica-moldova-uniunea-europeana-in-perioada-2017-2019/>

	Provisions of the AA	National Action Plan	Performance indicator	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
		<b>SL3.</b> New document The draft Government Decision on the approval of National Mass-media Development Conception	Government Decision entered into force	Broadcasting Coordination Council	Quarter II, 2017	
<b>132</b>	The Parties shall concentrate their co-operation on a number of fields:					
	(C) policy dialogue on cultural policy and audio-visual policy	<b>SL1.</b> New document Draft decision issued by BCC on approval of model of service offer for programs retransmitted in Moldova	BCC normative decision entered into force	Broadcasting Coordination Council	Quarter II 2018	Within the budgetary allocations
		<b>SL2.</b> New document Draft decision issued by BCC on the access for hearing-impaired and sight-impaired persons to program services	BCC normative decision entered into force	Broadcasting Coordination Council	Quarter I 2017	Within the budgetary allocations
		<b>SL3.</b> New documents Draft methodologies for monitoring the mass-media audiovisual services aired by broadcasters	Methodologies entered into force	Broadcasting Coordination Council	Quarter IV 2018	Within the budgetary allocations

	Provisions of the AA	National Action Plan	Performance indicator	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
(E) Cooperation in the field of media		<b>14.</b> Organize regional seminars for holders of broadcasting licenses and retransmission authorizations, during which issues related to the implementation of broadcasting legislation, execution of BCC decisions, etc., will be addressed.	Seminars organized	Broadcasting Coordination Council	Quarter III 2017 Quarter III 2018 Quarter III 2019	State Budget (Broadcasters Support Fund)
		<b>15.</b> Develop national audiovisual space and allocate financial means for production of program services	Contests organised for broadcasters	Broadcasting Coordination Council	Quarter III 2017 Quarter III 2018 Quarter III 2019	State Budget (Broadcasters Support Fund)
		<b>16.</b> Draft the Conception for coverage of the election campaign	Conception entered into force	Broadcasting Coordination Council	Quarter III 2018 Semester I 2019	Within the budgetary allocations
		<b>17.</b> Monitor the coverage of election campaigns by broadcasters	Monitoring conducted	Broadcasting Coordination Council	Quarter IV 2018 Quarter II 2019	Within the budgetary allocations
		<b>18.</b> Monitor how broadcasters ensure the access to information for people with special needs	Monitoring conducted	Broadcasting Coordination Council	Quarter III 2017 Quarter III 2019	Within the budgetary allocations
		<b>19.</b> Ensure the protection of linguistic, cultural and national heritage by the broadcasters in the country	Monitoring conducted	Broadcasting Coordination Council	Quarter I 2018	Within the budgetary allocations

	Provisions of the AA	National Action Plan	Performance indicator	Responsible institutions	The deadline for measure implementation and deadline for implementation according to AA	Estimated costs
133	The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIV to this Agreement according to the provisions of that Annex.					
	<u>Annex XIV to the Agreement:</u> <b>Directive 2010/13/EU</b> of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive).	<b>LT1.</b> Document for amendment The draft Law on amendment and completion of the Broadcasting Code of Republic of Moldova Transposes: Directive 2010/13/EU/ which repealed Directive 2007/65/EC	Law entered into force	Broadcasting Coordination Council	Quarter I 2017	Within the budgetary allocations

**STATEMENT 1.1.** – “The actions planned and the AA provisions are fully compliant, partially compliant, non-compliant”, is credited with 1 point and signifies the insufficiency of actions planned for such an extensive period – three years.

**RATIONALE:** provision 131 (1) – “The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television” is unjustly ignored. Since 2011, BCC has been a member of EPRA (European Platform of Regulatory Authorities), along with similar regulatory authorities of 46 countries; it is a member of Black Sea Broadcasting Regulatory Authorities Forum (BRAAF), Francophone Network of Media Regulators (REFRAM), Mediterranean Network of Regulatory Authorities (MNRA). In 2016, BCC had the presidency of Black Sea Broadcasting Regulatory Authorities Forum (BRAAF) and Chisinau hosted BRAAF annual meeting, at its seventh edition.

A proactive position of BCC, both within European bodies and while implementing provisions of signed bilateral agreements, could have generated the launching, maintenance and development of an efficient cooperation, able to encourage and foster television co-productions, for example. Such opportunities have not been capitalised so far and, in this respect, no actions have been planned in the NAP although they are necessary.

**PROVISION 131 (2)** – “Cooperation could include, inter alia, the issue of the training of journalists and other media professionals, as well as support to the media, so as to reinforce their independence, professionalism and links with EU media in compliance with European standards, including standards of the Council of Europe (CoE) and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions” from the AA is “covered” in NAP with 2 actions: training of journalists and development of draft National Conception for mass-media development. More aspects of the provision remain not addressed, such as: other possibilities (except training) for formation of journalists; other media professionals are left aside; actions to support the local media in strengthening ties with EU media; actions to implement certain RM’s commitments undertaken by having ratified in July 2006 the „2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions”, such as e.g. the one stipulated in Art. 6, p.2. h) („measures aimed at enhancing the media diversity, including through broadcasting public services”).<sup>7</sup>

**PROVISION 132** – “The Parties shall concentrate their cooperation on a number of fields”, including:”(c) policy dialogue on cultural policy and audio-visual policy” and “(e) Cooperation in the field of media” seems to be implemented through nine actions. However, they are insufficient if we consider that the dialogue on “audio-visual policy”, in European meaning and context, means that the respective dialogue would refer to coordinating the national legislation, **so as:**

- to create comparable conditions in all countries for new audiovisual media,
- to protect children and consumers,
- to ensure mass-media pluralism,
- to fight racial and religious hatred,
- to maintain cultural diversity
- to ensure the independence of national mass-media regulatory authorities.

**Euro-compliant audio-visual policy should lead to compliance with some minimum standards in the following fields:**

- **advertising** – regulations and restrictions for certain products (e.g., alcohol, tobacco, drugs, etc.) and for a limited bulk of advertising per hour,
- **major events** – important events, like the Olympic Games or Football World Cup, should be accessible to an audience as wider as possible, and not just to subscribers to paid TV

<sup>7</sup> <http://lege5.ro/Gratuit/he3tamby/conventia-asupra-protectiei-si-promovarii-diversitatii-expresilor-culturale-20-octombrie-2005-paris>

channels,

- **child protection** – violent or pornographic programs should be broadcast late at night and the access to them should be restricted using parental control mechanisms,
- **promotion of European films and European audiovisual content** – on TV channels, at least half of emission time should be devoted to European films and TV productions. Video-on-demand services should also promote European productions,
- **accessibility** – mass-media institutions should ensure access for sight-impaired or hearing-impaired people to their audiovisual content.<sup>8</sup>

**Generally speaking, the audiovisual policy should ensure:**

- a) a comprehensive framework that reduces the burden of regulation, covering, at the same time, all audio-visual media services;
- b) updated norms/rules on television advertising that will improve the financing of audiovisual content;
- c) the obligation to encourage media service providers to improve access for sight-impaired or hearing-impaired people to their services.<sup>9</sup>

As regards “cooperation in mass-media field”, it might include the most diverse aspects, such as the exchange and transfer of experience and best practice with regard to: regulation and self-regulation; economic condition, including advertising; operation of regulatory and media-supervising authorities, and not only for broadcasting sector; ensuring media pluralism; encouraging loyal competition; counteracting negative phenomena, including propaganda and misinformation; use of information technologies, etc. In another order of ideas, cooperation in mass-media sector could imply as well actions that result in, at least, the presence of media content in national information space of the biggest European news agencies, as well as expansion of national media contents beyond the boundaries of RM.

From this viewpoint, the nine actions planned to implement provision 132 p. (C) and (e) are insufficient.

**PROVISION 133** – “The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIV to this Agreement according to the provisions of that Annex” is specified with a point from Annex XIV to the Agreement, and, namely “ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services (Audio-visual Media Services Directive)”. This provision, according to NAP, will be implemented by a single action aimed at the adoption of a modification for amending and completing the actual Broadcasting Code. The Directive has 12 chapters and 36 articles. The document is very consistent in terms of content. Meanwhile, EU initiated comprehensive discussions for completing or reviewing the AVMSD, with key points referring to: (1) changing the limit of commercial communications from 12 minutes per hour to 20 % per day, between 7.00 and 23.00; (2) protection of minors against the content likely to “affect” them, the same regulation applying to traditional programs and on-demand services; (3) extending the provisions on European works to on-demand service providers, who must ensure that European works represent at least 20% of their catalogues and show appropriate visibility for these works; and (4) integration of video sharing platforms under AVMSD to fight hatred speeches and protect minors against harmful content.<sup>10</sup> Therefore, the commitment “Republic of Moldova shall

8 [https://europa.eu/european-union/topics/audiovisual-media\\_ro](https://europa.eu/european-union/topics/audiovisual-media_ro)

9 [http://www.europarl.europa.eu/atyourservice/ro/displayFtu.html?ftuId=FTU\\_5.13.2.html](http://www.europarl.europa.eu/atyourservice/ro/displayFtu.html?ftuId=FTU_5.13.2.html)

10 idem

approximate its legislation to EU legal acts and international instruments listed in Annex XIV to the Agreement” requires much more feasible actions to be accomplished in three years. One single action on approximating national legislation to EU regulations is definitely not enough.

**STATEMENT 1.2.** – “The actions planned for the reporting period are sufficient, satisfactory, insufficient”, is credited with 1 point and signifies the insufficiency of actions planned for the reporting period, i.e. March to May, 2017. For this period, three actions were foreseen (see table below).

National Action Plan	The deadline for measure implementation and deadline for implementation according to AA
<b>SL3. New document</b> The draft Government Decision on the approval of National Mass-media Development Conception	Quarter I, 2017
<b>SL2. New document</b> Draft decision issued by BCC on the access for hearing-impaired and sight-impaired persons to program services	Quarter II, 2017
<b>LT1. Document for amendment</b> The draft Law on amendment and completion of the Broadcasting Code of Republic of Moldova Transposes Directive 2010/13/EU/ which repealed Directive 2007/65/EC	Quarter II, 2017

**RATIONALE:** From the three foreseen actions, the National Conception for Mass-media Development is the most complex and, therefore, it will require much more time and efforts. The second action concerning a draft decision of BCC is irrelevant: BCC on May 17, 2016 adopted the Decision no.14/81 on access to program services for hearing-impaired and sight-impaired persons, published in the Official Gazette no. 169-183 on June 24, 2016.<sup>11</sup> Consequently, only two actions are left for three months, which does not certify the firm and plenary commitment to speed up the implementation of AA provisions on the media segment.

**STATEMENT 1.3.** – “The actions planned for the reporting period are accomplished, partially accomplished, non-accomplished”, is credited with 1 point and means unfulfilled actions.

**RATIONALE:** During the reporting period, none of the two actions were accomplished. It should be noted that even on 1 November 2016 the Parliamentary Commission for mass-media examined and gave a positive opinion to the proposals for amendment and completion of Articles 2, 3, 6, 13, 22 and 40 of the current Broadcasting Code, which had been drafted by the Broadcasting Coordination Council and presented as legislative initiative by the Government on October 19 last year. In fact, the proposals for amendments were included since 2013 in the Action Plan for the implementation of the Association Agreement and were intended to contribute to the harmonization of legislation. The provisions focused on the modality of providing audiovisual media services on demand, as well as conditions for dissemination of short extracts from the program service signal, which performs the broadcasting of major importance events. In 2013, after three years since the adoption of Audio-Visual Media Services Directive, the proposals were still timely. Meanwhile, however, it became absolutely necessary to update those proposals, taking into account the developments in Europe. The Directive of

11 <http://lex.justice.md/md/365536/>

the European Parliament and of the Council amending Directive 2010/13/EU of 25 May 2016 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities is already operating with "video-on-demand providers and videosharing platforms" and not "on-demand audiovisual services".

**STATEMENT 1.4.** – "Unplanned but timely actions for the reporting period are accomplished, partially accomplished, non-accomplished", is credited with two points and signifies the partial implementation of some unplanned but necessary actions.

**RATIONALE:** Two actions that are not included in the NAP for the reporting period have been achieved. They are: the adoption of Law no. 218 on amendment and completion of the Broadcasting Code, which, inter alia, stipulates that owners holding more than two broadcasting licenses should decline them immediately and not when their validity term expires. The second action aims to create a working group on adjustment of national mass-media legislation EU standards and best practices.

Thus, the answers to the statements regarding the quantitative analysis of NAP implementation receive a number of 5 points out of maximum 12.

## QUALITATIVE ANALYSIS:

**STATEMENT 2.1.** – "The actions planned and the AA provisions are fully compliant, partially compliant, non-compliant", is credited with two points and denotes a partial compliance.

**RATIONALE:** NAP includes 12 actions with a view to implement three provisions of AA on mass-media segment.

**PROVISION 131 (1)** – "The Parties shall develop a regular dialogue and cooperate to promote the audio-visual industry in Europe and encourage co-production in the fields of cinema and television", was ignored, although being very important in a field where cooperation, promotion and co-production are in the pipeline in an era of convergence,.

**PROVISION 131 (2)** – "Cooperation could include, inter alia, the issue of the training of journalists and other media professionals, as well as support to the media, so as to reinforce their independence, professionalism and links with EU media in compliance with European standards, including standards of the Council of Europe (CoE) and the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions", would be implemented, according to the NAP, via the actions "Organize and conduct training activities for journalists on observance of human rights in audio-visual services" and "Draft Government Decision on the approval of National Mass-media Development Conception". The actions as foreseen in NAP do not provide a clear understanding as being in full compliance with the AA provision. Although the training of journalists in terms of human rights is very important, provision 131 (2) is much more comprehensive, and most of its aspects remained uncovered. Training activities are necessary always and everywhere, but the "performance indicator" should rely in strengthening the independence, professionalism and links of Moldovan media with the EU one. In other words, a change in the view over the performance indicators is require. The two training sessions planned on human rights in the audio-visual, one in 2017 and another in 2019, will not ensure the fulfillment of much more ambitious goals of provision 131 from the AA, regardless of the number of participants attending them. The planned National Mass-media Development Conception could "cover" the currently missing aspects from the NAP for the moment.

The second action intended for implementing the provision 131 (2) would mean a draft government decision, entered into force, and a responsible institution – BCC. Definitely, the action should imply a national strategy / conception for mass-media development adopted and the performance indicator – its fulfilment, by which mass-media independence and professionalism should be reinforced, as well as their links with EU mass-media. A strategy / conception or a government decision does not necessarily mean that it will be functional. BCC is the institution responsible for the draft Government decision. Technically speaking, the preparation of a draft Government Decision does not require too much effort and time. Most probably, the authors of NAP had in mind the development of a national concept for mass-media development, which is an appropriate conception for Republic of Moldova. BCC is appointed as the responsible institution, which, in fact, covers only the broadcasting, whereas mass-media as a system includes as well the print press and online media. Under such circumstances, the relevance of planned actions is diminished even more.

The actions planned to implement provision 132 (c) and (e) – “Policy dialogue on cultural and audiovisual policy” and, consequently, “Cooperation in the field of media”, are in partial compliance. Firstly, we will notice the fact that, even though provision 132 (e) targets at media, in general, the planned actions refer only to broadcasting. In addition, the same actions target at cooperation inside the country, although provision 132 is explicit and univocal: “The Parties shall concentrate their cooperation in a number of fields”. Hence, the “Parties” focus on cooperation between signatories of AA. Some actions, as a matter of fact, repeat several BCC duties set by law, such as: “Develop the draft Concept for coverage of the election campaign”, “Ensure the protection of linguistic and cultural-national heritage by broadcasters in the country”, etc.

Three actions meant to support the political dialogue on audiovisual policy (provision 132 (c)) refer to several new normative documents, including a decision of BCC on the approval of model of service offer for programs retransmitted in Moldova; a decision of the BCC on the access for hearing-impaired and sight-impaired persons to program services, and Methodologies for monitoring audio-visual mass-media services aired by broadcasters. The normative acts in force are set as performance indicators. Respectively, we face the same viewpoint over the issue, when it is erroneously believed that the existence of a normative document would make it functional. The model of service offer for programs retransmitted in Moldova follows to be approved in the second quarter of 2018. The timeframe is not justified if this model, although requiring insignificant efforts, is to be approved after 23 years since the first law on broadcasting and after 11 years since the adoption of the Broadcasting Code.

As regards the “new” normative act on the access for hearing-impaired and sight-impaired persons to program services, foreseen for approval in the first quarter of 2017, it is irrelevant since BCC in May 2016 adopted another decision in this respect.

Referring to approval of Methodologies for monitoring audiovisual media services aired by broadcasters, it would be necessary to indicate their number. In October 2010 BCC had already adopted a new methodology for monitoring the program services of broadcasters.<sup>12</sup> Thus, the commitment is unclear. The deadline for implementation also raises doubts – the fourth quarter of 2018. For the fourth quarter of 2018, ordinary parliamentary elections are envisaged. In this context, if BCC has the obligation to monitor program services, it would have been relevant that the “methodologies” were adopted, tested and exploited earlier, given the fact that it is during the election campaigns that broadcasters commit the most numerous and serious mistakes.

Six actions planned to implement provision 132 (e) have minimal relevance. The first action includes the organization of three regional seminars per year, with holders of emission licenses and re-transmission authorizations. The other five actions refer to BCC duties, stipulated in the Broadcasting Code. The mechanical transfer of some obligations from the law into the NAP does not add any relevance to the planned actions. The planned actions should bring added value, but not

12 <http://www.cca.md/files/Ghid%20privind%20cadrul%20normativ%20in%20domeniul%20audiovizualului%20din%20R.M.pdf>

duplicate those of BCC. Organised seminars/contests or conducted monitoring are mistakenly set as performance indicators of performance, just as before. It is the effect of actions that matters, but not the actions themselves. For instance, “Ensure the protection of linguistic and cultural-national heritage by broadcasters in the country” cannot be guaranteed by “Conducted monitoring”, but by the actions to be taken based on the monitoring results. The relevance of NAP actions decreases even more, if we consider that they would refer to RM – EU cooperation in the media field. Therefore, they refer neither to the entire media sector, nor to the cooperation of AA signatories.

The only action planned for implementing the provision 133 – “The Republic of Moldova shall carry out approximation of its legislation to the EU acts and international instruments referred to in Annex XIV to this Agreement according to the provisions of that Annex” is partially compliant and cannot ensure the approximation of national norms to the EU ones. Even if it had become a law in the first quarter of 2017 as set in NAP, BCC initiative on provision of audiovisual media services on-demand would still have required shortly an updating. The situation remains uncertain including for reason that the transition to digital terrestrial television is delayed, and the development of information technologies brings about new and more attractive opportunities than audiovisual media services on-demand.

Provision 133 from the AA refers as well to “EU normative acts”, not only to “international instruments listed in Annex XIV to the Agreement”, as planned in the NAP.

**STATEMENT 2.2.** – “The actions planned for the reporting period are relevant, partially relevant, irrelevant”, is credited with two points and signifies partial relevance.

**RATIONALE:** Three actions are planned for the period March-May 2017. One of them referring to the access to program services for hearing-impaired and sight-impaired persons lost its relevance, since such a decision was taken by BCC one year ago. The most relevant action foresees the development and adoption of a national conception for mass-media development. Such a document is timely and would stand for a general vision on how the national media field will evolve on a medium and long-term basis.

**STATEMENT 2.3.** – “The actions planned / unplanned for the reporting period are accomplished properly, partially properly, improperly”, is credited with 2 points and corresponds to the “partially properly” option.

**RATIONALE:** The accomplishment of the three actions is inadequate. One action was fulfilled a year ago and, therefore, cannot be taken into consideration. Although are important, the other two actions are just under way.

The implementation of two unplanned actions may be qualified as partially proper. Here we refer to adoption of Law no.218 on the amendment and completion of Broadcasting Code, and the establishment of a working group, at Parliament’s initiative, for adjusting national media legislation to European standards. The Law no.218 causes reluctance in appreciation. For example, it provides for a new Article -66<sup>1</sup> that stipulates: “The measurement of audience percentage shall be done by a selected company following a transparent tender, at least once in 5 years, in accordance with procedures and conditions set by a regulation approved by the Broadcasting Coordination Council”.<sup>13</sup> This provision is very important, but it may not generate the expected effects, unless the law sets certain special limits for audience percentage permitted to a broadcaster. The law includes as well other gaps, fact which does not enable the unplanned action to be regarded as appropriate.

The implementation of the second unplanned action may be regarded as adequate: a public announcement was issued, the goal for establishment of the working group was clarified, the categories of representatives to be part of the group were indicated, the mechanism for delegating

13 [http://lex.justice.md/document\\_rom.php?id=041D82D8:3A07C731](http://lex.justice.md/document_rom.php?id=041D82D8:3A07C731)

representatives was decided, as well as an acceptable timeframe for delegation, the group was created and its members were publicly announced.

**STATEMENT 2.4.** – “The actions planned/unplanned and accomplished during the reporting period have the expected impact, the partial-to-expected impact, the null impact”, is credited with 2 points and the corresponding answer would be “partial-to-expected impact”.

**RATIONALE:** Two of three planned actions were not implemented, and, therefore, we cannot judge their impact on mass-media condition, in general, and on the audio-visual, in particular. The third action planned, but actually fulfilled a year ago (BCC decision on the access to program services for hearing-impaired and sight-impaired persons), may also not be assessed in terms of impact.

One month after the entry into force of new amendments to the Broadcasting Code, (one of which was intended to prevent the ownership concentration in mass-media system by allowing an owner to hold no more than two emission licenses), the biggest owner, leader of Democratic Party of Moldova (DPM), requested and obtained, in BCC open session, the cession of two from the four television channels, which he held at the time of entry into force of amendments (Law no.218). The television channels became property of a company, the manager of which is an advisor to DPM's leader. Hence, it might be the case that legislation is complied with, but the real impact upon the field is not the expected one.

The real impact of the second unplanned action, referring to the working group created by Parliament, shall be evaluated when the documents prepared by the group are taken over, voted for and implemented.

Thus, the answers to the statements regarding the qualitative analysis of NAP implementation receive a number of 8 points out of maximum 12.

Quantitative and qualitative assessments of the NAP and the implementation of the activities planned for the months March to May 2017, accumulate 13 points. According to the methodology, such a state-of-play shows that NAP implementation flows at a pace that requires acceleration.

## Conclusions:

- the actions planned in the NAP for the years 2014-2016 on the media segment have focused mostly on the audiovisual and did not fully comply with the AA provisions;
- the actions planned were either partially accomplished or not accomplished at all;
- the impact of actions' fulfillment was partial-to-the-expected one and, since not the entire media sector was targeted, these actions were unable to respond efficiently both to AA provisions and the necessity to establish and develop a democratic, pluralist and professional media system;
- while planning actions for the next implementation period (2017-2019), the above provisions were not taken into account, and some irrelevant actions are repeated;
- the formulation of actions and the manner of reporting on their accomplishment generally creates the impression that NAP (on the media segment) represents a goal in itself and not a tool for propelling positive developments in the media sector, based on democratic principles, which are conscientiously undertaken by the authorities;
- the actions planned in the NAP for the period 2017-2019 on the media segment and those planned for the reporting period are insufficient, targeting mostly the audiovisual and not being in full compliance with the AA provisions;
- the actions planned for the reporting period were not fulfilled;
- in the reporting period, two unscheduled actions were fulfilled, but which are appropriate for the stated purpose of the NAP;
- the impact of implementing unplanned activities during the reporting period is partially-to-the-expected one.

## Recommendations:

- The NAP, in its part covering the mass-media segment, should be reviewed and complemented, so that the actions: a) include the entire field of mass-media, b) are in full compliance with the AA provisions, c) do not duplicate the duties of responsible institutions, set by law, d) are exact, feasible and measurable;
- The performance indicators must be reviewed in a manner that takes into account the real effects of actions implementation, but not the actions themselves should generate the impact;
- The rhythm of properly fulfilling timely and relevant actions for mass-media development should be accelerated.