

## Annex H. Right to freedom of expression including access to information

Link to SDGs:



### 1. Right to access to information and freedom of expression before the COVID-19 pandemic

The effective implementation of the national provisions on access to information and freedom of expression, which are largely in line with international standards, has been a challenge over the three decades of Moldova's independence. Access to information has been recognised to be one of the most contested issues faced by media. Information, even when it is available in a digital format can only be accessed through a formal paper-based request. These requests are processed during a lengthy procedure, not meeting the needs of the current reality.

Furthermore, while the Law on Personal Data Protection (2007) appears to contribute to the protection of the right to private and family life, the law has been used in various instances as an argument to not grant access to information, especially to journalists. Article 10 of the mentioned law clearly notes that journalists are allowed to request personal data information, if it is of public interest and used for "processing personal data exclusively for journalistic, artistic or literary purposes, if the information relates to public figures or the public nature of the actions they are involved in, under the Law of Freedom of Expression." Despite this provision, state authorities have used the Law to justify refusals to provide information of public interest, stating that the information requested could not be disclosed without the consent of the subject concerned.<sup>1</sup>

**On the Left bank**, the freedom of expression can potentially and appears to have in the past been limited through the application of a range of de facto regulations and legislative provisions, including the 2007 de facto [regulation](#) "On Countering Extremist Activities", some provisions of the de facto "[Criminal Code](#)" and the 2020-2026 [Strategy](#) for countering extremism activities.

The de facto regulation "On Countering Extremist Activities" does not contain a clear definition of extremism but contains provisions that qualify as extremist certain actions including public justification of terrorism, defamation, and incitement of hatred among others. Sanctions for these so-called extremist activities are provided by the "Criminal Code" and can be applied against organizations, mass media outlets and individuals. The de facto Strategy for Countering Extremism, adopted on 20 March 2020, establishes the obligation of the de facto authorities to ensure monitoring and sanctioning of cases of spreading extremist ideology and materials in mass media and internet.

### 2. Respect and protection of the right to access to information and freedom of expression during COVID-19 pandemic

On 18 March 2020, the Commission on Emergency Situations extended the term for state institutions to respond to information requests from 15 days to 45 days. No official explanation was provided for the rationale behind this change. The Commission's decision was widely condemned by the local media community and civil society as contradictory to the rights to freedom of expression and access

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<sup>1</sup> See the policy brief "Why Access to Information Is Still a Problem in Moldova" at: [https://freedomhouse.org/sites/default/files/2020-03/Ionel\\_and\\_Gotizan\\_FINAL\\_EN.pdf](https://freedomhouse.org/sites/default/files/2020-03/Ionel_and_Gotizan_FINAL_EN.pdf)

to information. Moldova's Ombudsperson demanded the reinstatement of the original 15-day term<sup>2</sup>. The extension of the deadline for responding to requests for information compromised the ability of journalists in Moldova to provide citizens with vital and up-to-date information<sup>3</sup>.

From the start of the COVID-19 pandemic, the Government declared a fight against the dissemination of so-called fake news. On 19 March the Security Service issued an executive decision requesting the blocking of 52 websites, arguing that they were a threat to state security<sup>4</sup>. In a press release of 20 March, the institution confirmed that the websites that had been taken off the [www.stopfals.md](http://www.stopfals.md) web page were managed by civil society<sup>5</sup>.

By a decision of the National Commission on Exceptional Situations of 23 March 2020, on-line hosting companies and on-line content providers were obliged, following the decision of the Information and Security Service, to stop immediately the transmission or stocking of "fake news" on the evolution of COVID-19 and the protection and prevention measures.<sup>6</sup> Furthermore, based on a list of "fake news sources" developed by the Security and Information Service, the providers of the electronic communication services were obliged to block the access of users to those resources.

The Information and Security Services did not provide information on the process of determination of "threat to state security" and "fake news" of contents of any of the blocked websites. CSOs highlighted that the lack of an official definition of "false news" and "misinformation" created a permissive environment for the authorities to apply restrictive measures against critical media and online resources<sup>7</sup>.

On 24 March 2020, the Head of the Broadcasting Council issued an order requiring Moldovan media outlets to convey only the official position of authorities as well as of WHO in coverage of the pandemic during the state of emergency. Journalists were also prohibited from expressing their personal opinion while reporting on the subject. The overwhelming and immediate negative public reaction of media and civil society following the decision, caused a sudden reversal by the authorities. On 25 March the decision was repealed<sup>8</sup>.

On the Left bank, a few cases were reported in which the enactment of the Criminal Code provisions related to extremism were potentially linked to COVID-19, apparently limiting the freedom of expression. In one such case, in July 2020, Gennady Ciorba was placed under administrative arrest for ten days for allegedly being the organizer of a protest in Ribnita on 2 July. Ciorba had been critical of the region's handling of the restrictions to prevent the spread of the COVID-19 pandemic<sup>9</sup>.

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<sup>2</sup> ibid

<sup>3</sup> Balan V., Stegni V., COVID-19 pandemic: lessons from freedom of mass-media in the Republic of Moldova, Freedom House, available at: [https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy\\_FINAL-RO\\_0.pdf](https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy_FINAL-RO_0.pdf), p. 2

<sup>4</sup> See the press release at: <https://sis.md/ro/content/m%C4%83suri-executorii-privind-%C3%AEnl%C4%83tura-rea-cauzelor-%C8%99i-condi%C8%9Bilior-ce-contribuie-la-realizarea>

<sup>5</sup> See the press release at: <https://www.sis.md/ro/content/precizare>

<sup>6</sup> See the point 11 of the Decision no. 3 of 23 March 2020 of the National Commission on Exceptional Situations at: [https://gov.md/sites/default/files/dispozitia\\_3\\_din\\_23.03.2020\\_a\\_cse\\_a\\_rm\\_cu\\_modificari.pdf](https://gov.md/sites/default/files/dispozitia_3_din_23.03.2020_a_cse_a_rm_cu_modificari.pdf)

<sup>7</sup> See the COVID -19 pandemic: Lessons for the freedom of mass media in the Republic of Moldova, available at: [https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy\\_FINAL-RO\\_0.pdf](https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy_FINAL-RO_0.pdf), p. 5

<sup>8</sup> See the information of the decision at: "The Head of the AC of Moldova Overturned the Decision on Censorship of Media Opinions on COVID-19", 27 March 2020, <https://esp.md/sobytiya/2020/03/27/glava-kstr-moldovy-otmenil-reshenie-o-cenzure-mneniy-v-smi-po-cov-id-19>.

<sup>9</sup> See: <https://newsmaker.md/rus/novosti/v-pridnestrove-na-arestovannogo-za-protest-chorbu-zaveli-de-lo-za-ekstremizm-doc/>

### 3. Fulfilment of the rights to access information and freedom of expression

**Media.** The pandemic had a negative indirect impact on the functioning of the independent media. In the first place, the pandemic caused an increased financial burden for Moldovan media, while decreasing revenue streams. For example, several media outlets reported a reduction in revenues from advertising ranging from 30 to 90 percent, with online media having been most affected. Print media also reported problems with delivery of newspapers to customers, due to COVID-related breakdowns in the functioning of the national postal delivery service.<sup>10</sup>

Media institutions faced and continue to face considerable extra costs above their usual budget. Due to the inefficiencies of remote work, the average time required to produce media materials also increased, raising costs of labour and overtime. During the pandemic, frontline media teams also needed to be equipped with costly protective equipment – masks, gloves and sanitizers.<sup>11</sup>

Female journalists, who form the majority of the frontline media force in Moldova, also felt a disproportionate burden. The majority of female Moldovan media workers reported hardships in performing their work from home due to childcare and household work, which fell mainly on them.<sup>12</sup>

#### *i. Perceptions of the rights holders*

In the perception of the rights holders according to the OHCHR survey, the majority (84.3%) had sufficient information on prevention methods for COVID-19. 11.2% did not have access to information that would allow them to stay safe during the pandemic. On the Left bank, this information was accessible to 95.1% and partially accessible for 0.3% and not accessible at all for 4.6%.

**Roma.** According to the OHCHR survey, 66.1% of Roma in rural areas indicated that information on COVID-19 was sufficiently available in their language, which was a lower percentage than among any other linguistic group. Low-income Roma reported the lowest rate of access to information (49.3%) in a language common to this group.

**Persons with disabilities.** Concerns with regards to the accessibility of information for persons with disabilities, especially persons with intellectual and sensory disabilities were highlighted by the representatives of the NGO Task Force on COVID-19 and Human Rights<sup>13</sup>. This was also confirmed by the data of a sociological study from May 2020<sup>14</sup>.

For more data on the perceptions of rights holders to the right to freedom of expression including access to information, consult bellow tables.

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<sup>10</sup> See the COVID -19 pandemic: Lessons for the freedom of mass media in the Republic of Moldova, at: [https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy\\_FINAL-RO\\_0.pdf](https://freedomhouse.org/sites/default/files/2020-06/Balan%20and%20Stegniy_FINAL-RO_0.pdf)

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> The NGO Task Force on COVID-19 and Human rights is a group of 56 CSOs that joined thematic meetings to exchange information on the human rights situation in the context of COVID-19.

<sup>14</sup> Alliance of Organizations of Persons with Disabilities and Keystone Human Services Moldova, Sociological study Impact of COVID-19 pandemic on persons with disabilities, available at: <http://incluziune.md/wp-content/uploads/2020/06/STUDIU-IMPACTUL-PANDEMIEI-PERSOANE-CU-DIZABILITATI.pdf>, p. 12.

**Table 1. During the pandemic, did you have access to sufficient information about COVID-19, how to prevent infection, etc. in the language you speak best? (The Right bank)**

		Yes, enough	Yes, but not enough	No
<b>Total</b>		<b>84.3%</b>	<b>4.4%</b>	<b>11.2%</b>
<b>Respondent's gender:</b>	<b>Male</b>	79.3%	4.7%	15.9%
	<b>Female</b>	88.2%	4.2%	7.6%
<b>Respondent's age:</b>	<b>18-29 years old</b>	89.1%	2.2%	8.7%
	<b>30-44 years old</b>	85.1%	3.5%	11.3%
	<b>45-59 years old</b>	82.2%	5.0%	12.7%
	<b>60+ years old</b>	82.1%	6.4%	11.6%
<b>Respondent's education:</b>	<b>Post-primary</b>	76.4%	4.5%	19.2%
	<b>General secondary</b>	82.0%	4.9%	13.1%
	<b>Vocational</b>	86.4%	3.9%	9.6%
	<b>Higher</b>	87.4%	4.4%	8.2%
<b>Reduced working capacity:</b>	<b>Yes</b>	82.6%	6.1%	11.3%
	<b>No</b>	85.0%	3.8%	11.2%
<b>Language of communication:</b>	<b>Moldavian/Romanian</b>	82.8%	3.8%	13.4%
	<b>Russian or other</b>	88.0%	5.8%	6.2%
<b>Occupational status:</b>	<b>Economically active</b>	86.9%	2.7%	10.4%
	<b>Economically inactive</b>	82.6%	5.6%	11.8%
<b>Socioeconomic status:</b>	<b>Low level</b>	79.0%	6.3%	14.7%
	<b>Average level</b>	85.2%	4.6%	10.2%
	<b>High level</b>	87.8%	2.8%	9.4%
<b>Locality:</b>	<b>City</b>	86.4%	4.6%	9.1%
	<b>Village</b>	82.4%	4.3%	13.3%

**Table 2. During the pandemic, did you have access to sufficient information about COVID-19, how to prevent infection, etc. in the language you speak best? (The Left bank)**

		<b>Yes, enough</b>	<b>Yes, but not enough</b>	<b>No</b>
<b>Total</b>		95.1%	0.3%	4.6%
<b>Respondent's gender:</b>	<b>Male</b>	93.2%	0.0%	6.8%
	<b>Female</b>	96.5%	0.6%	2.9%
<b>Respondent's age:</b>	<b>18-29 years old</b>	92.0%	0.0%	8.0%
	<b>30-44 years old</b>	97.7%	0.0%	2.3%
	<b>45-59 years old</b>	96.2%	0.0%	3.8%
	<b>60+ years old</b>	94.9%	1.3%	3.8%
<b>Educational level:</b>	<b>Post-primary / Secondary</b>	92.4%	1.5%	6.1%
	<b>Vocational</b>	95.2%	0.0%	4.8%
	<b>Higher</b>	96.4%	0.0%	3.6%
<b>Reduced performance:</b>	<b>Yes</b>	97.8%	0.0%	2.2%
	<b>No</b>	94.6%	0.4%	5.0%
<b>Occupational status:</b>	<b>Economically active</b>	90.3%	1.1%	8.6%
	<b>Economically inactive</b>	97.2%	0.0%	2.8%
<b>Socioeconomic status:</b>	<b>Low level</b>	96.0%	1.0%	3.0%
	<b>Average level</b>	91.3%	0.0%	8.8%
	<b>High level</b>	96.7%	0.0%	3.3%
<b>Locality:</b>	<b>City</b>	94.3%	0.0%	5.7%
	<b>Village</b>	96.8%	1.1%	2.1%

**Table 3. During the pandemic, did you have access to sufficient information about COVID-19, how to prevent infection, etc. in the language you speak best? (Roma)**

		Yes, enough	Yes, but not enough	No
<b>Total</b>		70.8%	16.4%	12.8%
<b>Respondent's gender:</b>	<b>Male</b>	72.4%	21.1%	6.6%
	<b>Female</b>	69.9%	14.0%	16.1%
<b>Respondent's age:</b>	<b>18-29 years old</b>	63.4%	19.5%	17.1%
	<b>30-44 years old</b>	77.4%	14.5%	8.1%
	<b>45-59 years old</b>	72.7%	18.2%	9.1%
	<b>60+ years old</b>	67.2%	14.8%	18.0%
<b>Respondent's education:</b>	<b>Primary education or without</b>	65.8%	16.2%	17.9%
	<b>Secondary or incomplete education</b>	76.5%	16.7%	6.9%
<b>Reduced performance:</b>	<b>Yes</b>	62.1%	18.2%	19.7%
	<b>No</b>	74.5%	15.7%	9.8%
<b>Socioeconomic status:</b>	<b>Low level</b>	49.3%	28.8%	21.9%
	<b>Average level</b>	79.5%	12.3%	8.2%
	<b>High level</b>	83.6%	8.2%	8.2%
<b>Locality:</b>	<b>City</b>	72.4%	12.3%	15.3%
	<b>Village</b>	66.1%	28.6%	5.4%

