

FREEEX

REPORT



PRESS FREEDOM IN ROMANIA 2010

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- Bucharest 5th District, *Sectorul 5 București*
- Bucharest Court of Law, *Tribunalul București*
- Bucharest Metropolitan Police, *Poliția București*
- Bucharest Street Administration, *Administrația Străzilor din București*
- Cable Communication Association, (ACC) *Asociația de Comunicații prin Cablu*
- City Council, *Consiliul Local*
- Collective Labour Agreement at the level of Mass Media Industry, (CCM) *Contractul Colectiv de Muncă la Nivel de Ramură Mass-Media*
- Committee for Culture, Arts and Media, *Comisia pentru Cultură, Artă și Mass-Media*
- Confederation of The Romanian Democratic Trade Unions, (CSDR) *Confederația Sindicatelor Democratice din România*
- Constitutional Court, (CCR) *Curtea Constituțională*
- Convention of the Media Organizations, (COM) *Convenția Organizațiilor de Media*
- Country's National Defence Strategy, *Strategia Națională de Apărare a Țării*
- County Football Association, *Asociația Județeană de Fotbal*
- County Police Inspectorate, (IPJ) *Inspectoratul Județean de Poliție*
- County School Inspectorate, (ISJ) *Inspectoratul Școlar Județean*
- Democratic Alliance of the Hungarians in Romania, (UDMR) *Uniunea Democrată a Maghiarilor din România*
- Directorate for the Investigation of Organized Crime and Terrorism, (DIICOT) *Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism*
- Former Communist Secret Police, *Securitatea*
- Guard and Protection Service, (SPP) *Serviciul de Protecție și Pază*
- Health Insurance House, *Casa de Sănătate*
- High Court of Cassation and Justice, (ICCJ) *Înalta Curte de Casație și Justiție*
- IMAS Marketing and Research, *IMAS Marketing și Sondaje*
- Institute for the Investigation of Communist Crimes and the Memory of Romanian Exile, (IICCR) *Institutul de Investigare a Crimelor Comunismului și Memoria Exilului Românesc*
- Liberal Democratic Party, (PDL) *Partidul Democrat Liberal*
- Minister of Administration and Internal Affairs, (MAI) *Ministerul Administrației și Internelor*
- Ministry of Communications, *Ministerul Comunicațiilor*
- Ministry of Foreign Affairs, *Ministerul de Externe*
- Ministry of Labour, *Ministerul Muncii*
- Ministry of Regional Development and Tourism, (MDRT) *Ministerul Dezvoltării Regionale și Turismului*
- National Agency for Fiscal Administration, (ANAF) *Agenția Națională de Administrație Fiscală*
- National Agency for Housing, (ANL) *Agenția Națională pentru Locuințe*
- National Anticorruption Directorate, (DNA) *Direcția Națională Anticorupție*
- National Authority for Administration and Regulation in Communication, (ANCOM) *Autoritatea de Reglementare în Comunicații din România*
- National Council for Studying the Archives of the Communist Security, (CNSAS) *Consiliul Național pentru Studierea Arhivelor Securității*
- National Council of Audiovisual (CNA), *Consiliul Național al Audiovizualului*
- National Integrity Agency, (ANI) *Agenția Națională pentru Integritate*
- National Investment Fund, (FNI) *Fondul Național de Investiții*
- National Liberal Party, (PNL) *Partidul Național Liberal*
- National Statistics Institute, (INS) *Institutul Național de Statistică*
- Pensions House, *Casa de Pensii*

- Public Television, (TVR) *Televiziunea Publică*
- Romanian Academic Society, (SAR) *Societatea Academică Română*
- Romanian Association for Audience Measurement, (ARMA) *Asociația Română pentru Măsurarea Audiențelor*
- Romanian Association of Audiovisual Communication (ARCA) *Asociația Română de Comunicații Audiovizuale*
- Romanian Commercial Bank, (BCR) *Banca Comercială Română*
- Romanian Federation of Journalists - MediaSind, *Federația Română a Jurnaliștilor - MediaSind*
- Romanian Intelligence Service, (SRI) *Serviciul Român de Informații*
- Romanian Presidency, *Președinția României*
- Romanian Press Club, *Clubul Român de Presă*
- Romanian Press Owners, *Patronatul Presei din România*
- Romanian Radio Company, (SRR) *Societatea Română de Radio*
- Romanian Railways, (CFR) *Căile Ferate Române*
- Romanian Television Company, (SRTV) *Societatea Română de Televiziune*
- Social Democratic Party, (PSD) *Partidul Social Democrat*
- Supreme Defence Council, (CSAT) *Consiliul Suprem de Apărare a Țării*
- Supreme Magistrates Council, (CSM) *Consiliul Superior al Magistraturii*
- Territorial Labour Inspectorate, *Inspectoratul Teritorial de Muncă*

METHODOLOGY

FreeEx Department has been publishing annual reports on press freedom since year 2000. The purpose of these reports is to provide an accurate image upon the main events and tendencies in what concerns the freedom of expression, especially press freedom.

We divide the infringements against freedom of expression and media freedom as follows:

- **Attacks:** physical attacks against the journalists or the editorial offices (hitting, confiscating or destroying the recording equipment, tapes or cameras, sequestering the journalist, devastating the editorial office etc.).
- **Threats:** death threats, threats that put the physical integrity of the journalist, his family or his fortune at risk, using trivial language when addressing to the journalist.
- **Pressures of authorities:** pressures made on the journalists and media institutions by state institutions (investigations carried out by the Police, the Prosecutor's Office, the Financial Guard or other state institutions and aimed at intimidating the press, arresting or detaining journalists for investigations, pressures from investigators to disclose confidential sources, confiscating or copying computer data, confiscating or copying documents, intercepting communications, passing pieces of legislation that are unfavorable to the press or refusing to amend such pieces of legislations, etc.).
- **Political pressures:** pressures upon journalists and media institutions made by politicians or parties (systemic pressures made exclusively for protecting the political interests of some parties or politicians; including the use of state institutions in this respect).
- **Economic pressures:** pressures upon journalists and media institutions made by companies or businessmen (offering advertising contracts, cancelling advertising contracts, asking for certain information not to be published or for certain journalists to be laid off in order to maintain the advertising contracts etc.).
- **Access to public interest information:** denial of state institutions or other institutions using public funds of granting access to public interest information to journalists; withdrawal or denial of accreditations for journalists.
- **Censorship:** forbidding the publication, confiscating all the copies, abusive suspension of the broadcasting license.
- **Self-censorship:** journalists refraining from publishing public interest information as a consequence of indirect pressures made by the owners or the editorial chiefs.
- **Legislation:** pieces of legislation affecting the legal environment in which media functions and limiting the journalistic freedom of speech.

The media business environment (market division, acquisitions, merges, regulatory framework, financial issues etc.) has an impact upon journalists' freedom of expression and the quality of media products. Also, the respect for ethical norms has an impact on media freedom. Thus, FreeEx report includes special sections dedicated to a brief analysis of the media market and to the main issues regarding media ethics and self-regulation.

The cases described below are based on: direct investigations made by the FreeEx team (discussion and correspondence with the parties involved, the parties' lawyers, state institutions, etc.), information collected via the freeex network (www.groups.yahoo.com/freeex), articles in print media, radio and TV news, blogs and online publications. Our report is also based on official reports and reports issued by independent organizations. This report is by no means exhaustive; it is a mirror of the events as they were brought to our knowledge and to the best extent we were able to document them.

GENERAL CONTEXT

Romanian Press Freedom, declining

2010 was a difficult year for freedom of expression. Romania ranked **52** in the world ranking of press freedom ("Press Freedom Index 2010"¹), published by the Reporters without Borders organization. Our country has dropped two places from the previous year. Thus, media freedom has been in decline for the third consecutive year (2007 - 42nd, 2008 - 47th, 2009 - 50th place, 2010 - 52nd).

"Protecting the freedom of the press continues to be a struggle, a battle of vigilance in old Europe's democracies"², the authors of the worldwide press freedom index note. The OSCE also noted in a study that "press freedom is threatened in most European countries"³. The "Nations in Transit" report, drawn up by Freedom House, shows that the state of democracy has worsened in Romania, in conditions of degradation of the indicators regarding the electoral process, independent media and national governance⁴.

The most important events of 2010 with impact on freedom of expression:

- Since the economic crisis began, **6,000** media employees have been fired (journalists and technical staff) and over **60** local newspapers have been shut down. In 2010, advertising revenues have decreased and the circulation of several *quality* newspapers decreased by half as compared to the previous year.
- Large media corporation owners have been at the centre of public debate: Sorin Ovidiu Vintu was detained for favoring a convicted felon, Dan Diaconescu for blackmail, Dan Voiculescu was revealed to have been a former communist Secret Police informer, etc. The media entities owned by said individuals reported such events in an unbalanced, partisan and, at times, hysterical manner.
- The press was included among the national security weaknesses in the Country's National Defense Strategy.
- A serious issue is the lack of clear lines delineating between advertising and journalistic products

(hidden advertisements, "special projects").

- Relevant and verifiable editorial content is on the brink of extinction, suffocated by hysterical, manipulative pack journalism, partisan opinion and infotainment.
- Local authorities gave disproportionate sanctions and violated freedom of expression in many cases. A journalist was fined for saying a joke about policemen and a musical genre was banned from public transportation in two cities.
- Physical aggression and insults against journalists were initiated in an alarmingly high number by police officers and by public figures.
- The authorities and politicians promoted legislative initiatives having a negative impact on freedom of expression and media independence (e.g.: mandatory press cards, publishing ban for people with criminal records, public statements of interest for journalists, the transfer of the public tv channel TVR Internațional in the suborder of the Ministry of Foreign Affairs, withdrawing licenses of the defamatory print press). Luckily, none of these initiatives were adopted.
- The law on the operation of public radio and television has not been reformed and the new Boards of Directors appointed in 2010 remain politically-oriented.
- The Constitutional Court wanted to classify data set forth in the statements of assets and interests of official dignitaries.
- Televisions have transformed the deaths of public figures into gruesome performances, a result of the degradation of the media's professional standards.
- The High Court of Cassation and Justice has decided that insult and libel should no longer be prosecuted as criminal offenses.
- The transition to digital television has been delayed by the Government until 2015.

The media market was still strongly affected by the crisis. The circulation of several newspapers has decreased by half as compared to the previous year. Over the past two years, approximately 6,000 media employers have been dismissed (journalists and technical staff). Since the crisis began, over 60 local newspapers have been shut down. There have been many changes in media ownership and management in the media industry.

Interferences of politics and obscure interests in editorial activities of certain media outlets / publications had negative

¹ "Press Freedom Index 2010", Reporters Without Borders, en.rsf.org, 2010.

² Ibidem.

³ "Media freedom threatened in most European countries, says OSCE", Honor Mahony, EuObserver.com, July 30, 2010.

⁴ "The state of democracy has worsened in Romania", R.M., HotNews.ro, June 30, 2010. "Due to political interference and lowered professional standards within the media sector, Romania's independent media rating worsens from 3.75 to 4.00." - "Nations in Transit", Freedom House, June 2010.

repercussions in the business area as well. In August, the German media group WAZ announced its decision to withdraw from the Romanian media market. The main reason that it invoked was the political orientation (political distortion) of the information in the press, caused by “**oligarchies [which - editor’s note] buy newspapers and magazines, not so much in order to make money, but to help them gain political influence**”⁵, according to Bodo Hombach, WAZ President.

The “moguls” have become, more than ever, the stars of their own media outlets. Journalists were faced with the acute conflict of interest of having to write about scandals that starred their own employers, and even about their being arrested. The charges include extortion, favoring a convicted felon, collaborating with the former communist Secret Police or embezzlement. The coverage of such topics was a test of journalistic independence and ethics. News televisions failed the test. They turned into attorneys of their employers, they turned the latter into martyrs and they exerted pressure on the justice system.

A new journalistic genre was invented: the non-stop, live, political soap opera. Every day, TV studios invite representatives of political parties and “analysts” of the most unusual kind. Several times a day, in marathon-like shows, they discuss “topics of the day” and begin arguing on any subject, accusing one another of political bias and manipulation, as in a never-ending soap opera. The protagonists live in a continuing unattested conspiracy, and journalists make no efforts to clarify things.

The situation is similar to the sexy-politics promoted by Italian televisions, except that instead of young women with bare breasts, scowling men in suits appeared before the camera. Numerous pamphlets and editorials have been written about this television style, but so far no study has been conducted, to show its real impact on viewers and on the democratic system. It is becoming an increasingly widespread notion that all politicians are alike, no matter which one you choose.

To these drifts, the state **authorities responded in a disproportionate and undemocratic way** (instead of supporting the political and editorial independence and using resources to promote high quality journalism in public radio and television stations). The National Defense Strategy included, among the national security weaknesses, the “phenomenon of media-engineered smear campaigns directed towards state institutions by disseminating false information regarding the activity of the same” and “the

pressures exerted by media corporations on the political decision in view of obtaining political or economic benefits or in the relationship with state institutions”. The strategy was initiated by the Romanian Presidency and adopted by the Supreme Council of National Defense.

On the other hand, the state authorities continue attempting to buy off the journalists’ good will by sponsoring media products or paying for the travel of journalists. The ruling party boycotted news televisions for an entire month “out of respect” for a correct information of the public.

One third of the journalists interviewed in a survey admitted that what they write is influenced by advertising⁶. Worthy of mentioning were “the sponsorships” granted by the Ministry of Tourism and the many techniques used by Roșia Montană Gold Corporation to influence journalists and to censor articles deemed unfavorable to the company.

Again, in 2010, **journalists were the target of aggression, threats, intimidation and insults**. Such aggressive behavior often came from politicians, civil servants and, to a disturbingly high extent, from the police. The assailants included renowned athletes, such as chess player Elisabeta Polihroniade or former tennis champion Ilie Năstase. European Parliament Member George Becali cursed a journalist again, this time a woman reporter who was interested in his statement of assets and interests. A journalist from Valea Jiului found out that an organized group in the area was willing to pay Lei 2,000 for his physical assault. Two cameramen were beaten by a poacher and a security guard, respectively, and their cameras were destroyed. An amateur paparazzo was hit by a celebrity’s car. In several cities, representatives of police forces attacked the journalists while they were trying to document issues that they considered to be of public interest. In a public debate, Christian Ciocan, the Bucharest police spokesman, stated that citizens have a right to film and photograph the police, whether or not during the working hours, as long as they wear a uniform, but that any hostilities suffered from the policemen may be, at most, sanctioned later by their superiors, but not (always) prevented. The Commissioner also stated that “police do not attack, police defend themselves.”

A journalist from Iași was fined Lei 200 because he told his friends, on the street, a joke about policemen. The Bucharest Street Administration (BSA) requested the removal of the captions of a photo exhibition about the

⁵ “WAZ withdraws from Romania. Adamescu might be the sole owner of <<România Liberă>>”, Realitatea.net, August 3, 2010.

⁶ “Media Transparency in Romania: Final Professional Report”, dr. Katerina Tsetsura & colab. Gaylord College of Journalism and Mass Communication, University of Oklahoma, USA, 2010. Study conducted on a sample of 127 journalists and 66 experts in public relations.

events of June 13-15, 1990 involving the miners, on the grounds that it incited violence. A Timișoara student was the victim of a special forces raid after having committed an alleged computer crime. He had hacked into the County School Inspectorate's website and posted insulting comments about certain politicians. Local authorities in Galați and Cluj had the "manele" musical genre banned from public transportation and from taxicabs, respectively. The organizers of an Iași festival banned the "manele" during the event. In all cases, the "manele" ban was seen as a "hygienic" method, pertaining to the same class as decent appearance and cleanliness. No reference to other musical genres was made. The press showed no criticism towards such prohibitions.

In 2010, politicians and state authorities competed in issuing undemocratic legislative initiatives. Two initiatives of **restrictive press laws** were rejected by the Senate, one of which just barely. Ioan Ghișe's initiative proposed the implementing of compulsory identity cards for journalists. The journalist was supposed to pass a psychological test, not to have a criminal record and not to derive any income sources from business ventures. The law was rejected by the Media Committee of the Senate with 4 votes against, two for and two abstentions. The Prigoană Law, which proposed, by amendments to the Audiovisual Law, the implementing of compulsory licenses for print and online media, was fortunately rejected both by the Media Commission of the Chamber of Deputies and by the plenum, and afterwards by the Media Committee of the Senate. Prigoană proposed the temporary or permanent withdrawal of the license for the publications that were unable to present evidence of truth for defamatory claims against an individual. The CNA (National Audiovisual Council) would have been in charge with withdrawing the licenses.

Lia Olguța Vasilescu announced, in the summer of 2010, that she intended to **propose a law that would require owners of on-line newspapers to moderate comments and forums**. "We need to clean up the forums, the serious websites, the news agencies, of all the neuropaths and perverts who use swear words and obscenities towards all the other users"⁷, Lia Olguța Vasilescu explained. Following public protests, Vasilescu gave up the initiative and, for the moment, she turned her attention to self-regulating methods.

In 2010 as well, politicians failed to reform **the law on the operation of public television and radio**. The Senate proposed an unrealistic form of the law, which ignored the

conclusions of the previous discussions with employees of the two institutions, NGOs and trade unions. The law was publicly criticized by over 20 NGOs and trade unions and was rejected by the Senate's plenum. As the public television's annual report had been rejected and the mandate of the radio's Board of Directors had expired, the Parliament proceeded to appointing the new Boards of Directors. Again, the political parties appointed people in the Boards of Directors on the basis of their political affiliation, rather than on the basis of any competence criteria.

Also in 2010, deputy Silviu Prigoană had another "remarkable" legislative proposal: **transferring the public tv channel TVR Internațional in the suborder of the Ministry of Foreign Affairs**. The project was tacitly adopted by the Chamber of Deputies. In December 2010, it was rejected by the Senate's Media Commission.

The audiovisual regulatory code was reformed by the National Audiovisual Council (CNA) after a public consulting process. The code still has some objectionable points. An initiative of CNA several members, to amend the *must carry* principle, failed to materialize in the Parliament. The process of transition to digital television was unexpectedly delayed by the Government during the very progress of the auction for the first two multiplexes. The postponement has a negative impact, primarily for the development of wireless internet networks.

Year 2010 was a tense year for journalists, with delays in the payment of wages, restructuring, sneering and pressures from employers, which were difficult to tolerate. But many journalists resisted the pressures and defended their rights, in many cases successfully. **The Collective Labour Agreement at the level of Mass Media Industry** was extended without amendments (it was signed in the first days of 2011). In an attempt to collect more taxes from the state, the Government implemented **additional fees for copyright contracts**. Thus, for contracts made for dependent activities (where the work technique belongs to the paying company and the employee is in a relationship of subordination), the fees and taxes are identical to those for employees working on the basis of an employment contract. Trade unions claimed that the amendment does not support the protection of the employed journalists' rights to work, as it legally encourages companies to give up employment contracts.

Access to public interest information remains marked by a culture of lack of transparency of state institutions. Journalists and citizens encounter numerous denials of access to information. However, several important lawsuits have been won in court, which gave, for example, access to

⁷ "BREAKING NEWS - CNA Could Regulate Internet posts", Inpolitics.ro, August 10, 2010.

a contract for the procurement of advertising and promotion services, which was kept confidential, invoking the bank secrecy law, as well as access to a privatization contract. Publication of *ex officio* information by the authorities remains deficient.

Also in 2010, journalists and the public were on the verge of losing the ability to unconditionally access **statements of assets and liabilities of dignitaries (public interest information)**. The Constitutional Court claimed in a decision that the obligation to publish the statements of assets and liabilities of dignitaries is a violation of the fundamental right to respect and protection of private life. The immediate consequence was the appearance of a proposal for the amendment of the law for the operation of the National Integrity Agency (ANI), initiated in Parliament, which created two types of statements: a public one and a confidential one (solely submitted to the ANI). The new system would have prevented public scrutiny of the dignitaries' assets and liabilities. The law was dismissed by President Băsescu and, later on, this provision was amended by the Parliament.

The High Court of Cassation and Justice (ICCJ) confirmed, following a second appeal to serve the law promoted by the Attorney General, the fact that the non-constitutional nature of the Romanian Parliament's decriminalization of **offenses such as insult and libel, declared in February 2007**, did not mean that these crimes have become penal again. This second appeal clears up, after almost four years, a situation of legislative uncertainty. ICCJ's decision confirms that any penal law sanction (penal fine or administrative fine) for acts of libel and slander, ordered by the judicial bodies after August 12, 2006 (date of entry into force of the law repealing Art. 205 - 207 of the Penal Code), has violated a key condition provided for by the European Court of Human Rights, as the interference with the right guaranteed by art. 10 of the European Convention was not provided for under the law.

Many insult and libel lawsuits were lost by those who filed them. Judges increasingly refer to the jurisprudence of the European Court of Human Rights. A lawsuit pursuant to which a final decision had been awarded in court, which coerced a journalist to pay moral damages in the amount of EUR 25,000, and the television station he worked for to pay EUR 75,000 in damages to three plaintiffs, was quashed by the Alba Court of Appeals.

Soon, the **new Civil and Penal codes** shall come into force. They have preserved the decriminalization of insult and libel, but brought significant changes with respect to

the protection of the one's right to his/her own image, reputation, dignity and private life. The new Civil Code shall also bring forth a form of temporary prohibition of publication. The judicial system is not ready to incorporate the new laws and, in the absence of effective training programs for judges, prosecutors and lawyers, there is a risk of a non-unitary, even extremely different, implementation of the new provisions.

Financial difficulties have created a climate of instability and compromise in the media. It is also alarming that the process of self-regulation of the media has made no remarkable progress in 2010. Television channels speculated the deaths of famous people and turned them into a media show. Their families have been almost harassed and lured into a game of morbid statements. The media continues to assign ethnic significance to crimes and to accept extremely violent and racist comments from certain readers.

However, the press is the most credible source regarding information about corruption⁸, according to a study on the "The citizens' perception of corruption in public institutions: causes, practices, prevention". Also, another study reveals that three out of five Romanians believe that the media is independent⁹.

⁸ "Media, the first reliable source of information about corruption", Mediafax.ro, August 25, 2010. Study conducted by the National Agency of Civil Servants, in partnership with the "Support Programs for Sustainable Development" Association.

⁹ "Three out of Five Romanians consider that the press is independent" Mediafax.ro, October 1, 2010. Study commissioned by the "Pro Democrația" Association and conducted by the Sociological Research and Branding Company (CCSB).

CHAPTER 1. THE MEDIA MARKET

In the previous FreeEx report (regarding the situation of Romanian press in 2009) we were writing that 2010 promised to be a year of stabilization and rearrangement, and that new business models, partnerships between newspapers, TV and online media¹⁰, would be approached. These expectations materialized only in part.

Advertising, Circulation, Ratings. Changes of ownership

In the context of the increasing economic crisis, the media market has been fluctuating¹¹ and undergoing major transformations, especially in order to survive a decrease in the advertising revenues, according to the National Readership Survey. Televisions were an exception, as they managed to keep the amount of advertising investments to a level comparable with that of year 2009 (EUR 160 million¹²) over the first three quarters of the year. This was possible because TV stations aired more commercials as the TV advertising prices dropped¹³. Many TV stations exceeded the advertising time allowed by law (12 min / hr) and were sanctioned by the National Audiovisual Council (CNA). Unfortunately, the economic pressures intensified the compromise and diversified the subtle forms in which it manifested. Consequently, hidden advertisements became “special projects¹⁴” - a terminological umbrella under which one began to hide advertising that was not announced as such.

In 2010, investments in print advertising decreased by EUR 25 to 30 million¹⁵. Circulation for several quality newspapers (Adevărul, Evenimentul Zilei) decreased by half, as compared to 2009¹⁶; the decrease in sales was felt in the case of tabloids as well, but to a lesser extent. However, there have also been publications which either maintained their circulation or suffered only small fluctuations (Capital, Romania Liberă, Click!¹⁷).

At the beginning of the year, the Gardianul, Ziua and

Cotidianul publications suspended their print editions, the first two gave up their online versions as well and the Cotidianul.ro website was purchased by Cornel Nistorescu of Realitatea-Cațavencu.

February marked the “transaction of the year in the print media market¹⁸”: Ringier sold the Capital and Evenimentul Zilei newspapers to the newly-established company, Evenimentul and Capital Publishing House, the majority shareholder of which is businessman Bobby Păunescu. On July 1, Ringier (owner of Romanian publications Libertatea, Bolero, Libertatea pentru Femei, Bravo, Unica, BravoGirl) and Axel Springer (Edipresse partner in Romania) merged, thus creating the Ringier Axel Springer Media AG company¹⁹.

Businessman Dan Adamescu, main shareholder of the Astra insurance company, bought half of the Medien company from WAZ, thus becoming the sole owner of the România Liberă newspaper and of the other magazines published by the company²⁰.

In September, the Money Express weekly publication became a monthly publication after registering a loss of EUR 500,000 during the first half year²¹. In fact, other business publications have been strongly affected by the crisis as well. During the second quarter of the year, the Săptămâna Financiară and Capital publications, leaders in this market segment, recorded sales that fell 45% and 37%, respectively, below those of the corresponding period in 2009²².

In June, Adrian Sârbu fully withdrew from the shareholding of the Pro TV S.A. company, owned by Central European Media Enterprises (CME), after also transferring the last 5 percent of his shares to the CME²³. In the second quarter of the year, Pro TV SA's revenues fell 10% below those of the corresponding quarter in 2009²⁴. Thus, \$ 48.5 million became \$ 43.65 million. Adrian Sârbu remained a shareholder of Publimedia, Apropro Media and Mediafax, which companies he later combined into a single entity, the Mediafax Group.

¹⁰ “FreeEx Report 2009. Press Freedom in Romania”, ActiveWatch - Media Monitoring Agency, May 2010, p. 10.

¹¹ “Romanian Media Readership, Decreasing from January to December 2010”, Ana Obretin, Mediafax.ro, March 22, 2011.

¹² “TV Advertising at 9 months: € 160 million”, Carmen Neacșu, Financiarul.com, October 26, 2010.

¹³ Ibidem.

¹⁴ “Forbes: Depression of the Advertising Market”, Petre Barbu, Adevărul.ro, October 7, 2010.

¹⁵ “The Fall of the Print Industry in 2010. Adevărul Holding Case Study”, Petrișor Obae, PaginaDeMedia.ro, February 28, 2011.

¹⁶ “Analysis: The Evolution of Newspapers in 2010. Adevărul and Evenimentul Zilei's Sales Have Decreased by Half. Extended Version”, Carmen Maria Andronache, PaginaDeMedia.ro, March 9, 2011.

¹⁷ Ibidem.

¹⁸ “2010 in Print - EVZ's Sale, Cornețeanu's Resignation, Layoffs and Wage Reductions”, Alexandra Buzaș, Mediafax.ro, December 24, 2010.

¹⁹ “Ringier AG Axel Springer Media has been established and is becoming operational”, Mediafax.ro, July 2, 2010.

²⁰ “Adamescu, Sole Owner of Astra and România Liberă, Ziarul Financiar, ZF.ro, August 3, 2010.

²¹ “Money Express Becomes a Monthly Publication”, Petrișor Obae, PaginaDeMedia.ro, September 15, 2010.

²² “Crisis Takes a Bite Out of the Business Press as well: Business Newspapers Leaders Lost Up to 45% of the Sales”, Lindsay George, DailyBusiness.ro, September 7, 2010.

²³ “Adrian Sârbu Fully Withdraws from the Ownership of Pro TV SA, Petrișor Obae, PaginaDeMedia.ro, June 28, 2010.

²⁴ “CME Media Group: Higher Revenues Regionally and Lower Revenues in Romania in the Second Quarter. Adrian Sârbu: Only the Czech Republic and Slovenia Have Begun their Recovery”, V.O., HotNews.ro, July 28, 2010.

In November, Sorin Oancea resigned from Intact and took over half of the shares of B1 TV²⁵. He also became the TV station's manager.

In 2010, two new television stations were launched: 10 TV (owned by the RCS & RDS company) and România Ta (owned by Honorius Prigoană, PDL member; PDL is the Democratic Liberal Party) and a new television station for women, TLC, was added to the Discovery Networks Romania's portfolio. In January, the N24 news station was transformed into general television and changed its name to N24 Plus. In July, journalist Radu Moraru took over 60% equity stake in the Vox News television station, while the other 40 percent remained Bobby Păunescu's property²⁶.

In August, the Bucharest Court of Law ordered Telesport station to file for bankruptcy as a result of an insolvency request submitted by Telesport Intermedia SRL²⁷.

Financial pressures have also had an impact on the *quality* TV shows. In August, journalists from the coverage and investigation department of the "Realitatea Reporters" show of Realitatea TV were moved to the news department²⁸. A month later, Antena 3 suspended *Special Reporter*, a coverage and investigation show. "I am only discovering that the Romanian television shows will now show one less hour of journalism each week²⁹", Vlad Petreanu, journalist and Antena 3 project coordinator, wrote on his personal blog.

In terms of TV ratings, no dramatic changes occurred in 2010. PRO TV has remained the "absolute ratings leader"³⁰ and some of the most viewed shows (entertainment) included: "Dansez pentru Tine", "Land of Jokes", "Pe muchie de cuțit", etc. Football matches surprisingly increased TVR's (the public television's) ratings in June³¹ (by 100,000 viewers) and September brought Romanians in front of the television in a larger number than in the summer months, especially in the evening³². According to the activity report of the Romanian Television Company, TVR's advertising revenues were higher by 9.2% than those obtained in 2009, amounting to approximately Lei 38.5 million³³. However,

²⁵ "It's official: Sorin Oancea, 50% of B1 TV", Petrișor Obae, PaginaDeMedia.ro, December 2, 2010.

²⁶ "Radu Moraru Takes Over 60% of Vox News", Petrișor Obae, PaginaDeMedia.ro, July 29, 2010.

²⁷ "Telesport Channel files for Bankruptcy", Ziare.com, August 5, 2010.

²⁸ "The Realitatea Reporters Show Was Semi-Cancelled", Tiberiu Lovin, ReporterVirtual.ro, August 12, 2010.

²⁹ "Special Reporter Show, Suspended", Vlad Petreanu, petreanu.ro, September 24, 2010.

³⁰ "PRO TV, absolute ratings leader in 2010 as well", ProTv.ro, January 3, 2011.

³¹ "Football matches increased TVR's ratings", Petrișor Obae, PaginaDeMedia.ro, July 2, 2010.

³² "RATINGS: September brings Romanians in front of the TV. All television stations' ratings increase in the evening", Petrișor Obae, PaginaDeMedia.ro, October 4, 2010.

³³ "TVR Report: Public Television - advertising revenues of EUR 9.65 million in 2010", Mediafax.ro, April 15, 2011.

public television ended the year with a deficit of Lei 161.9 million³⁴.

During the summer, the Capital city's radio stations had 120,400 listeners less than during the same period in 2009³⁵, the most serious decrease in listeners being suffered by Radio 21 (minus 85,000 listeners³⁶). The most listened-to radio stations were: Kiss FM, Romania Actualități, Radio ZU and Europa FM, with over one million listeners a day, according to a survey conducted by IMAS - Marketing and Research and Mercury Research³⁷. According to partial data, the amount collected by public radio through advertising in 2010 was of Lei 4.5 million, meaning a decrease of approximately Lei 3 million from the previous year³⁸. In July, Radio România Actualități (public radio channel) signed an agreement with an Italian company, which would allow it to broadcast in Italy as well.

In an attempt to attract and preserve listeners, radio stations resorted to various innovative marketing strategies: anti-mosquito frequencies³⁹ (Magic FM), campaigns for the "uninvolved observers" (Radio ZU), contests with prizes in bicycles or balls, giving away tickets to circus shows or concerts, DVDs, etc. (Kiss FM, Radio 21)⁴⁰.

As of January 1, 2012, audiences shall be measured by Kantar Media, the company that won the tender organized by the Romanian Association for Audience Measurement (ARMA)⁴¹.

Over 60 local newspapers shut down since the crisis began

Since the beginning of the crisis towards the end of 2010, more than 60 local publications were shut down, 40 of which in 2010 alone, according to the vice-president of the Association of Local Publishers, Gruică Ienășoiu⁴². In 2010, Midas Media became the market leader and the largest local

³⁴ "Public Television ended the year with a deficit of Lei 161.9 million", Mediafax.ro, April 15, 2010.

³⁵ "The Bucharest Radio Stations Lost 120,000 Listeners. Radio 21 is the Most Affected", Carmen Maria Andronache, PaginaDeMedia.ro, September 20, 2010.

³⁶ Ibid.

³⁷ "Summer Radio Ratings: Kiss FM, Romania Actualități, Radio ZU and Europa FM Have Had Over One Million Listeners a Day", V.O., HotNews.ro, September 20, 2010.

³⁸ "Public Radio Collected approximately Lei 4.5 million from Advertising in 2010", Mediafax.ro, December 27, 2010.

³⁹ Statistically Irrelevant Parenthesis: in an attempt to test the effectiveness of the Anti-mosquito Frequency, One of the FreeEx Team's Members was "riddled" in his Car by the insufferable insects, despite turning up the volume.

⁴⁰ "What Radios would Do to Increase Audience: they chase mosquitoes away, they attract cyclists and they acknowledge the profession of uninvolved observers", V.O., HotNews.ro, July 6, 2010.

⁴¹ "Kantara Media Will Measure TV Audiences as of 2012", Costin Ionescu, HotNews.ro, January 17, 2011.

⁴² "More than 60 Newspapers Were Shut Down in Two Years of Crisis", Financiarul.com, December 22, 2010.

media administrator in Romania, according to a company release. The partners of the administrator own publications with a total circulation of 230,000 copies and an estimated audience of over one million readers per edition⁴³.

6000 media employees made redundant since the beginning of the crisis

In 2010, there were numerous cases of TV shows, publications and radio stations being shut down / suspended / bankrupt, downsizing, restructuring and cutting of wages; journalists who changed their workplace; management and ownership changes, etc. In August, the president of the Romanian Journalists' Federation MediaSind, Cristi Godinac, announced that, according to data provided by the National Statistics Institute, since the economic crisis began, 6,000 media employees had been made redundant (together with the technical and administrative staff) and that MediaSind filed over 50 lawsuits against media companies or media groups⁴⁴.

Transfers of Stars

Also, the economic crisis and its effects, as well as various other circumstances, have resulted in several "transfers" of journalists / TV stars among the media outlets. That is why Mircea Radu returned to TVR, Robert Turcescu left Realitatea TV and went to B1 TV, ProTV ended their collaboration with Gabriel Jugaru, Antena 1 replaced the presenters of their main news bulletin (Alessandra Stoicescu and Lucian Mândruță), Liana Stanciu left B1 TV, Răzvan Dumitrescu left Realitatea TV for Antena3, Liviu Mihaiu temporarily moved his "ecology tablets" from Realitatea TV to TVR, Adelin Petrișor was hired by the public television station, Moise Guran moved from Antena to TVR and Europa FM, Radu Moraru became "the godfather of 10TV", Corina Drăgotescu returned to Realitatea etc. It is noteworthy that the wave of resignations from Realitatea TV was counterbalanced by the influx of collaboration with the public television.

Licenses with "problems"

In 2010, the National Audiovisual Council (CNA) proved to be very strict in granting / extending TV licenses.

In October, after the publication of phone call transcripts between Vîntu and journalists from the Realitatea-Cașavencu group, which revealed editorial pressures exerted by the employer, CNA initially postponed making a decision to extend Realitatea TV's license. The lack of equidistance of the station was discussed⁴⁵ and the station was asked

⁴³ "Midas Media Has Become the market leader and the largest local media administrator in Romania", Informația-zilei.ro, November 5, 2010.

⁴⁴ "Journalists, with No Right to Reply", Bursa.ro, August 12, 2010.

⁴⁵ "The CNA postponed the decision to extend the license of Realitatea TV", Mediafax.ro, October 26, 2010.

to supplement its license file with an editorial strategy document and an assumed ethics code. Ultimately, the CNA decided to extend the license. Six members voted for the extension, but three voted against it.

CNA denied licensing to the LuXx TV erotic television, on the grounds of incompatibility with Romanian legislation⁴⁶, which solely allows coded rebroadcasting of foreign televisions of this nature.

Also, in 2010 the Council rejected the programming grid of the ZEUS general television (former Teleshop Channel, bought by Luis Lazarus with the purpose of establishing a general television) three times and, each time, asked for a revision of the same.

In December, the Imobiliare TV and Turism TV stations obtained broadcasting licenses but the CNA members mentioned the risk that such stations may conduct hidden advertising. In response, the owner of said television stations, Greek businessman Ilias Papageorgiadis, stated: "If we decided to go for hidden advertising, everyone watching us would very quickly conclude that we are not serious and would stop watching us"⁴⁷.

In 2010, the Council granted a total of 4 licenses for radio and 15 for TV⁴⁸.

Print - TV collaborations and the new media

In 2010, increasingly more publications developed their multimedia content on their websites, conducted online interviews and online interactive programs. Online advertising reached the record amount of EUR 10 million in the first half of 2010, according to a study conducted by IAB România and PricewaterhouseCoopers (PwC)⁴⁹. Moreover, also according to the PwC report, "Internet access and advertising expenses will be the pillars for the development of the Romanian media and entertainment market over the 2010-2014⁵⁰ period". In April, the media groups, the administrators of interactive sales and several online companies, announced the adoption of a "set of principles that would govern the management of *performance marketing* campaigns [performance-based marketing - editor's note] on all websites which they edit and / or represent in terms of selling advertising space"⁵¹,

⁴⁶ "Erotic Television LuXx TV not granted a license by the CNA", Mediafax.ro, August 17, 2010.

⁴⁷ "New TV stations: Imobiliare TV and Turism TV received their license", Carmen Maria Andronache, PaginaDeMedia.ro, December 14, 2010.

⁴⁸ Annual CNA Report, page 8 - www.cna.ro.

⁴⁹ "Record in Romanian online advertising", Ana Bâta, Evz.ro, December 16, 2010.

⁵⁰ "Internet access and advertising will support the development of Romanian media and entertainment in 2010-2014" - PwC Report, V.O., HotNews.ro, July 5, 2010.

⁵¹ "Romanian internet heavyweights have adopted a set of principles for online advertising", Money.ro, April 14, 2010.

for the purpose of helping the online advertising industry in our country mature.

In February, the *Gândul* daily newspaper re-launched its website, together with its video section, titled *Gândul TV*⁵². In September, *Evenimentul Zilei* turned its online department into a newsroom of its own⁵³.

In May, SC PRO TV SA obtained a license from ANCOM (the National Authority for Administration and Regulation in Communications) in order to implement the PRO TV 3D station. "We applied to ANCOM for a license to broadcast in 3D and we intend to implement the channel this year. This channel will not be in simultaneous broadcast with the ProTV program. We believe that today we do not have sufficient reasons to turn an HD transmission into an eminently 3D one"⁵⁴, stated CMEs Head of TV Technology Claudiu Paraschiv.

Also in May, Apropro Media launched the first Romanian *easy blogging* website, *Bule.ro*⁵⁵, which allows users to create blogs instantly.

In June, the ProSport and *Gazeta Sporturilor* daily newspapers appeared in three-dimensional versions, with special 3D viewing glasses attached.

In July, the DailyCotcodac blog launched the first print version of a Romanian blog, as an eight-page satirical newspaper⁵⁶.

The digitization process

In 2010, the Government decided to postpone the transition from analogue terrestrial to digital television for 2015, while the original deadline had been set for 2012 (a deadline which was agreed upon by the whole European Union, including Romania, with the exception of Poland). Nevertheless, several TV stations continued the experimental digitization process that began in 2006 (ProTV was the first Romanian television that began transmitting in High Definition format). Thus, B1 TV, Vox News and Acasă TV received CNA's consent to experimentally broadcast HD programs (additional data is available in the Legislation section of this report).

⁵² "Gândul.info Has Launched a New Version of the Site", *Dragoș Tănase, Apropro.ro*, March 1, 2010.

⁵³ "Reorganization: Evenimentul Zilei Now Has a Full Time Online Editorial Department", *Petrișor Obae, PaginaDeMedia.ro*, September 15, 2010.

⁵⁴ "PRO 3D TV will be implemented this year", *Mediafax.ro*, May 11, 2010.

⁵⁵ "Apropro Media Launched Bule.ro, the First Easy Blogging Site in Romania", *Mediafax.ro*, May 13, 2010.

⁵⁶ "Daily Cotcodac, the first print blog in Romania", *DailyCotcodac.ro*, July 6, 2010.

Politicians have set up television stations

Despite the economic crisis, there were several politicians interested in launching media projects in 2010. Thus, in September, Valentin Adrian Iliescu, Minister for Parliament Relations, took over the Vâlcea television station Etalon. In this context, his rival for the presidency of PDL (Democratic Liberal Party) Vâlcea, Romulus Bulacu, claimed that the politician could use the television station for personal purposes. Valentin Adrian Iliescu had previously declared that he wanted a television that "presents an accurate depiction of events that happen both in Vâlcea and at a national level"⁵⁷.

In October, Honorius Prigoană, son of Deputy Silviu Prigoană, received a license from the CNA, in order to set up the news channel *România Ta*, which started broadcasting on December 1, 2010. Even though the channel does not currently have a local station, Honorius Prigoană's father, the television station's consultant⁵⁸, registered over 100 titles of TV stations with OSIM. In January 2011, the station began its technical unemployment period⁵⁹.

In September, Adevărul Holding (the shareholder of which is Dinu Patriciu, businessman and former National Liberal Party - PNL - leader) received a license from the CNA to establish the Adevărul TV station, an investment estimated at EUR 37.4 million. Alexandru Sassu, Executive Director of the Adevărul Holding TV Division, said that the television will be of a general nature and will include approximately 40 local television stations⁶⁰.

Realitatea-Cațavencu

The Realitatea-Cațavencu group underwent dramatic transformations in 2010. Tensions arose around the financial difficulties of the group and the publication of transcripts of telephone conversations of Sorin Ovidiu Vîntu with some of its employees. Transcripts of the discussions revealed Vîntu's abusive involvement in editorial content⁶¹ (more on transcripts may be found in the Ethics sections of this report).

In March, 16 journalists of the Academia Cațavencu publication complained of editorial pressures and censorship and decided to resign and launch on their own "Kamikaze", a new satirical publication, subtitled: "No moguls! An Out of

⁵⁷ "PDL is purchasing television stations. Valentin Adrian Iliescu, Secretary of Parliament Relations, Purchased Etalon TV in Vâlcea", *Petre C., Optimalmedia.ro*, September 20, 2010.

⁵⁸ "Prigoană received a license for the news channel România Ta", *RomâniaLiberă.ro*, October 12, 2010.

⁵⁹ "Stuck: Prigoana's <<România>> Entered Technical Unemployment", *Carmen Maria Andronache, PaginaDeMedia.ro*, January 21, 2011.

⁶⁰ "Adevărul Holding has a TV license", *Iulia Bunea, Adevărul.ro*, October 12, 2010.

⁶¹ "The Vîntu File Transcripts", *ActiveWatch.ro*, October 21, 2010.

Control Weekly Magazine”. “I want to go to a place where I can write about Roșia Montană”⁶², declared Mircea Toma, one of the founders (and “deserters”) of Academia Cațavencu (Mircea Toma is also the president of ActiveWatch).

The groups’ problems reached a boiling point in September, when Sorin Ovidiu Vîntu was detained on remand for 29 days⁶³ for favoring offender Nicolae Popa (a close personal friend), who was indicted for embezzlement and complicity to abuse and sentenced *in absentia* to 15 years imprisonment, for defrauding the National Investment Fund. After seven days of arrest, prosecutors approved the second appeal filed by Vîntu’s defense team and decided to investigate Vîntu at large, but prohibited him for leaving the country⁶⁴.

In March, the Reuters press agency requested that Realitatea TV and NewsIn file for bankruptcy on the grounds of accumulated debts⁶⁵. In August, businessman Sorin Ovidiu Vîntu put up for sale the entire Realitatea-Cațavencu Group, with the exception of the Realitatea TV television station, because of the corporation’s financial problems⁶⁶. A few days before, France-Presse Agency had requested that Realitatea Media SA and the NewsIn news agency should file for bankruptcy, on the grounds of their failure to pay their debts⁶⁷.

In July, Cațavencu SA (company) filed for bankruptcy. “The company that publishes the Academia Cațavencu magazine, as long as many other magazines, is filing for bankruptcy. The magazine is still being issued. The brand is to be appraised and sold”⁶⁸, stated Doru Bușcu, editorial director of the magazine.

Starting from the unfavorable financial conjecture, which increased during the crisis (the corporation registered a deficit of EUR 39 million in 2009 alone⁶⁹), there was an “exodus” of journalists from the Realitatea TV corporation to the competitor corporations⁷⁰. In October, the management of Realitatea Media was taken over by Asesoft, a company

owned by businessman Sebastian Ghiță⁷¹. Concluded for a period of 5 years, the management contract implies an investment of EUR 75 million. In the spring of 2011, Sorin Ovidiu Vîntu came into conflict with Sebastian Ghiță and was detained for 24 hours for allegedly blackmailing and threatening to kill Sebastian Ghiță.

In early November, the Chello Zone company became the sole shareholder of the television station for women Romantica TV, after taking over the 49 percent of the shares held by the Realitatea-Cațavencu group. The reasons why Romantica TV was included in full in the Chello portfolio were determined by a decrease in the advertising revenues, according to the general manager of Chello Networks SRL, Dorian Ciubuc⁷².

On April 7, 2010, Publika TV started broadcasting. Publika TV is a television station owned by Sorin Ovidiu Vîntu in Moldova.

Sorin Ovidiu Vîntu no longer appears in Realitatea-Cațavencu’s deeds of ownership. In September 2010, Vitalie Dobanda, administrator of Blue Link Comunicazione (the main shareholder of the group), was replaced by Ioana and Ionut Codrin Vîntu, children of Sorin Ovidiu Vîntu⁷³. In February 2006, Vîntu had admitted that he was behind this off-shore.

OTV

Another media mogul that had a brush with the law in 2010 was Dan Diaconescu, OTV’s owner. On June 22, he was detained for 24 hours by the National Anticorruption Directorate (DNA) prosecutors, together with Doru Pârș, one of his collaborators, because they had allegedly asked a mayor for EUR 200,000 to prevent OTV from broadcasting a compromising material on him. The next day, the two were detained on remand for 29 days, but Dan Diaconescu filed for a second appeal and managed to persuade the magistrates to be investigated at large⁷⁴.

The state investigates the finances of news channels

In 2010, ANAF conducted a number of financial controls at Realitatea Media and Intact Media Group’s headquarters, on suspicions of tax evasion. “At this time, ANAF inspectors are inventorying the property of Realitatea Media, in order

⁷¹ “Sebastian Ghiță, Asesoft Owner, Takes Over Management of the Realitatea Cațavencu media group”, Realitatea.net, October 25, 2010.

⁷² “Chello Zone Buys Realitatea’s Stocks in Romantica TV”, November 9, 2010.

⁷³ “Narcisa Iorga, CNA: Realitatea TV could lose license because Vîntu was not a shareholder”, RomâniaLiberă.ro, October 28, 2010.

⁷⁴ “Dan Diaconescu, cercetat în stare de libertate”, Sorin Solomon, România-actualități.ro, 25 iunie 2010.

⁶² “Cațavencu Journalists: We’re Leaving Because Of Censorship”, Oana Dan, Evz.ro, March 2, 2010.

⁶³ “Vîntu, arrested: You are witnessing the worst times in the history of Romania after 1989”, EvZ.ro, September, 10 2010.

⁶⁴ “Sorin Ovidiu Vîntu Released! He would not talk to the press”, ȘtirileProTV.ro, September 16, 2010.

⁶⁵ “Reuters Asks Realitatea TV to File Bankruptcy”, Cristi Ciupercă, RomâniaLiberă.ro, March 9, 2010.

⁶⁶ “Vîntu’s Empire Collapses like a Sand Castle, Liviana Rotaru, EvZ.ro, August 18, 2010.

⁶⁷ “Vîntu also has debts to the French: France Presse requests that Realitatea Media and NewsIn File for Insolvency”, DailyBusiness.ro, August 4, 2010.

⁶⁸ “Cațavencu SA files for Bankruptcy”, Petrișor Obae, PaginaDeMedia.ro, July 26, 2010.

⁶⁹ “EUR 39 Million deficit for Realitate Media, Carmen Maria Andronache, PaginaDeMedia.ro, August 12, 2010.

⁷⁰ “Exodus of Realitatea TV Stars”, Iulia Brunea, AdevăruL.ro, October 6, 2010.

to apply a restraint, as a precautionary measure for the recovery of debts to the state budget, debts calculated by the Tax Authorities at over Lei 16 million”, ANAF sources declared for HotNews.ro⁷⁵.

Realitatea Media Group claimed that this was a check ordered by political entities, in the context of “constant pressure from the current political powers.” “Realitatea Media is warning the public that for the first time since the Revolution, it is faced with an unprecedented abuse of political power against a media institution. Our company will not be intimidated and will notify the competent courts”, a press release stated⁷⁶.

“Moguls”: Drifting from their role as media owners

In August, the German media group WAZ announced its decision to withdraw from the Romanian media market. The main reason that it invoked was the political orientation (political distortion) of the information in the press, caused by “oligarchies [which - editor’s note] buy newspapers and magazines, not so much in order to make money, but to help them gain political influence”⁷⁷, according to Bodo Hombach, WAZ President.

The term “mogul” has become established in recent years to define the major media owners in Romania. The word usually defines a person with great financial power, gained from businesses other than the media, who sometimes is also a politician or who supports political organizations, through his products. Some of these “moguls” also have interests related to the serving of justice, with prosecutors’ investigations or pending lawsuits. For part of the public there is a suspicion that such owners use, more or less visibly, the “media weapon”, to pursue their political, business or justice-related interests. The suspicion was confirmed whenever they had problems with the state authorities (see arrests⁷⁸) and by the manner in which election campaigns have been reflected in the press owned by them.

This type of owner risks becoming extremely harmful to the media as a whole, promoting a type of journalism with serious ethical problems, which serves his/her personal interests. Substituting his/her personal agenda with the public interest one potentially results in compromising both the journalistic profession and the role of the media.

⁷⁵ Sorin Ovidiu Vîntu, Dan Voiculescu, Dinu Patriciu, the “Sources: The Tax Authority Freezes Realitatea Media’s Assets for a Debt of Lei 16 Million”, D.T., HotNews.ro, June 22, 2010.

⁷⁶ Ibidem.

⁷⁷ “WAZ withdraws from Romania. Adamescu might be the sole owner of <<România Liberă>>”, Realitatea.net, August 3, 2010.

⁷⁸ “2009 FreeEx Report: Freedom of the Press in Romania”, ActiveWatch - Media Monitoring Agency, May 3, 2010.

Micula brothers, the Păunescu family, Dan Diaconescu, Silviu Prigoană are some of the most important examples, judging from their personal wealth and the size of media companies they own.

Some media owners in Romania have been very visible in 2010, either as a result of their arrests or as a result of suspicions that they collaborated with the former communist Secret Police, or because they were accused of editorial pressures. From this point of view, Sorin Ovidiu Vîntu, Dan Diaconescu and Dan Voiculescu were most frequently present in the journalistic materials.

We talked earlier about the arrests of Vîntu and Diaconescu. At the time of writing this report (April 2011), both are investigated at large and claim that President Traian Băsescu is behind their arrests. In an interview with the Bursa publication, Sorin Ovidiu Vîntu said that the president hates him “beyond all reasonable doubt”⁷⁹. Also in 2010 information appeared in the press that Vîntu had collaborated with the Secret Police, under the secret codename “Nuș”⁸⁰. The file is pending with the CNSAS.

After being released from detention on remand, Dan Diaconescu announced his intention to run for president and established the People’s Party.

Dan Voiculescu increased his personal visibility by participating in various talk shows on Intact media corporation⁸¹. Suspicions that he collaborated with the Secret Police continued to hover over him, and in March 2011, came the irrevocable decision of the High Court: Voiculescu collaborated with the Secret Police under the codename “Felix”.

Conclusions:

- The media market has been strongly affected by the economic crisis and by the disappearance of relevant and verifiable content which became smothered by hysterical and opinion journalism.
- The circulation of several newspapers decreased by half in comparison to the previous year. Over the past two years, approximately 6,000 media employees (journalists and technical staff) were made redundant. Over 60 local newspapers have been shut since the beginning of the crisis.
- Several central newspapers have disappeared and, with them, online archives that stored important journalistic material which had been collected in several years.
- An unprecedented migration of journalists from one

⁷⁹ “Exclusive: Interview with Sorin Ovidiu Vîntu: Gentlemen, Isolate Băsescu!”, Bursa.ro, August 9, 2010.

⁸⁰ “Vîntu’s Case, pending with CNSAS”, Mirela Corlățan, EvZ.ro, July 13, 2010.

⁸¹ “Dan Voiculescu Puts His Foot Down: I’ll Get Audience Ratings Up By Myself!”, Petrișor Obae, PaginaDeMedia.ro, June 29, 2010.

press institution to another was noted.

- There have been many changes in media ownership and management.
- Two media owners were arrested, one of them (Sorin Ovidiu Vintu), for favoring a criminal accused of complicity to abuse and embezzlement, and the other, (Dan Diaconescu) for blackmail.
- Several media outlets made innovations in content and means of promotion. Their effectiveness is still unclear.
- Artificially sustained media discourages healthy investment in the media industry and in honest journalism.

Recommendations for media owners:

- Short-term investments, focused on the survival of media outlets, must not ignore the effects they have on the quality and accountability of the media. Respect for the public is the safest investment.
- Responsible media brings profits. Invest in the training of professional journalists and publishers.

Recommendations for journalists and editors:

- Do not tolerate the abuse of media employers. They discredit media as a whole.
- Editors must be mediators between managers / media owners and journalists, protect the editorial freedom of the newsroom and assume responsibility for turning their newsroom into a professional environment.

CHAPTER 2. POLITICAL AND ECONOMIC PRESSURES. PRESSURES FROM THE AUTHORITIES

This year, the authors of this report have found it difficult to make a clear cut distinction between the political and the economic pressures upon the media. In many cases, the two fields seem to have blended. 2010 was a year that once again highlighted mechanisms through which business people purchased the media in view of obtaining political influence. Some of the cases set forth below exclusively refer to political pressures or pressures from the authorities.

The press is a national security weakness

The press has been included in the Country's National Defense Strategy, among the national security weaknesses. The document mentions "the phenomenon of media-engineered smear campaigns aiming to denigrate the actions of state institutions by disseminating false information regarding their activity" and "the pressures exerted by media corporations holdings on the political decision-making process for the purpose of obtaining economic advantages or in the relationship with state institutions". The strategy was initiated by the Romanian Presidency, adopted by the Supreme Defense Council (CSAT) and forwarded on the 23rd of June to the Romanian Parliament⁸².

The strategy was received with a tough wave of criticism by journalists and by several organizations of the civil society. "This official document, containing superficial statements and accusations against the press in its entirety, represents a serious threat to the right of freedom of speech, as it can serve as a future basis for legislative initiatives meant to annul any criticism against the state institutions. This is why we condemn the statements made in the CSAT Strategy and appeal to the Romanian Parliament to make the necessary amendments to this document by eliminating any reference to the issue of vulnerability represented by the media criticism"⁸³, states a release signed by over 20 media, human rights and good governance organizations.

The Confederation of the Romanian Democratic Trade Unions (CSDR) and the Romanian Federation of Journalists MediaSind have drafted a petition addressed to the European Parliament, stating that "the inclusion of such assertions within the official documents of the CSAT represents an

⁸² "The National Strategy of State Defense represents a risk for democracy", ActiveWatch.ro, June 23, 2010.

⁸³ Ibidem.

attempt to overturn the democratic system of Romania, an unprecedented act in the recent history of our country”⁸⁴.

The petition was initially closed in the plenum of the European Parliament’s Committee on Petitions, given that 16 (European People’s Party) EPP euro-deputies voted, most of them belonging to the PDL, despite the group having been entitled to only 12 members. Because of this irregularity, the petition has been reopened and the Committee on Petitions is awaiting the vote of the Romanian Parliament regarding this document. At the date of drawing up this report, the strategy is present on the agenda of the reunited defense commissions. Should it be adopted without any changes, the Committee on Petitions could propose a resolution of the European Parliament and could request the European Commission to launch an infringement procedure against Romania, the president of FRJ MediaSind, Cristian Godinac, stated for FreeEx.

PDL is boycotting the news channels

On April 8, PDL (the governing party) has decided to prevent its members from participating in the shows of the television channels Realitatea TV and Antena 3. “Out of respect for a correct information provided to the citizens, starting tomorrow (...) its representatives [should - n.r.] no longer take part in the debate shows of Antena 3 and Realitatea TV, until such channels return to a critical but correct information of the public opinion”⁸⁵, declared Gheorghe Flutur, the vice-president of the party.

Some PDL members have protested against the decision made by the Permanent Office. “The boycott opened on Thursday evening at the Permanent office is a hasty measure. Even if placed under a conditional - <<until such channels return to a critical but correct information of the public opinion>> - the decision brings a limitation of the freedom of speech”⁸⁶, the member of the PDL Euro Parliament Cristian Preda wrote on his blog. “Do you know why it was decided? If the PDL members stop attending TV shows, the channels in question will get poor ratings, will no longer have advertising funds, these mean employers will become poor. This was a sample of bad decision”⁸⁷, PDL deputy Sever Voinescu stated in a public debate.

The European Federation of Journalists (EFJ) accused Emil Boc of intolerance. “The actions of the prime minister

⁸⁴ “The FRJ MediaSind and CSDR petition submitted to the European Parliament against the CSAT strategy”, MediaSind.ro, October 11 2010.

⁸⁵ “PDL has stopped sending its representatives to the shows of Realitatea TV and Antena 3”, Mediafax.ro, April 8, 2010.

⁸⁶ “Antena 3”, Cristian Preda, CristianPreda.ro, September 4, 2010.

⁸⁷ “PDL wanted to make the moguls poor”, Florin Ciornei, EvZ.ro, May 17, 2010.

are illustrating an unsettling degree of intolerance for the freedom of the press”⁸⁸, declared Aidan White, the general secretary of the EFJ.

After a month, the party cancelled the measure, invoking the same argument they had used when deciding to boycott: “There are numerous pieces of distorted news and the ministers and the representatives of the party need to appear on television”⁸⁹, said Gheorghe Flutur.

The politicians’ vision of the press has been the most visible in the request that Emil Boc submitted to the Romanian Television: he asked that he should have his own television show on every Wednesday, at peak hours⁹⁰.

The public television and radio Boards of Directors remain politically oriented

In March 2010 the activity report of the Romanian Television Company (SRTV) for 2008 was rejected by the Parliament. Alexandru Sassu, the President-General Manager of SRTV (who had been appointed as such in 2007, from the position of vice-president of the Social Democrat Party - PSD), as well as the entire Board of Directors, thus ended their mandate.⁹¹ Through the effect of law, Alexandru Sassu remained the interim general manager until the nomination of a new Board of Directors.

In May, the Media Commission of the Senate worked on a new draft law on the operation of the Romanian Radio and Television Companies. The debates have led to failure, the new draft law being critiqued by a large group of media and human rights trade unions and organizations. In June 2010, this draft law was rejected by the plenum of the Senate (the process is detailed in the Legislation chapter of this report) and one proceeded to nominating the new members of the Boards of Directors of the two institutions, based on the old law.

PDL (Liberal Democratic Party) appointed in the Board of Directors of the public Television the very manager of the press office of said party, Ada Meresan. Other nominees for the Board of Directors of SRTV were Călin Botez, advisor of the Chamber of Deputies’ president, Roberta Anastase, and Cătălin Baba, state secretary in the Ministry for Education,

⁸⁸ “Boc, accused of intolerance by the European Federation of Journalists”, Realitatea.net, April 13, 2010.

⁸⁹ “PDL cancels the prohibition regarding the news televisions”, Mediafax.ro, May 11, 2010.

⁹⁰ “Emil Boc asked to appear on TV: he wants a weekly show on TVR. Only at peak hours!”, Lucian Gheorghiu, old.cotidianul.ro, March 30, 2010.

⁹¹ “The Parliament members rejected the activity report of TVR for 2008. Alexandru Sassu, fired from the management of SRTV, accuses Boc of political pressure. The report of the public radio has been adopted”, L.P., C.M., HotNews.ro, March 30, 2010.

former chief of the chancery and advisor of prime-minister Emil Boc. Nicoleta Nicolicea (Board of Directors of SRTV), proposed by PDL, is the wife of the independent deputy Eugen Nicolicea. Demeter Andras Istvan, proposed by the UDMR for the Board of Directors of the SRR and become President General Manager, was the personal advisor of the minister of Culture. Josef Klein, deputy member in the Board of Directors of SRR (the Public Radio Company), was a press advisor at the cabinet of vice-prime-minister Marko Bela, while Cosmin Irimies, deputy member of the Board of Directors of SRTV, was chief of cabinet of the prime-minister's advisor, Călin Hintea. Claudiu Brânzan (Board of Directors of SRTV), PSD member and spokesman of this party in Galați since 2003, was nominated in 2009 as Galați prefect as well, by minister Dan Nica (PSD). Anne Marie Jugănar (Board of Directors of SRTV) ran for parliamentary elections in 2008 in a Bucharest college on behalf of the PSD-PC Alliance. Stejărel Olaru (Board of Directors of SRR) also ran for elections in 2008 on behalf of PNL in Caraș-Severin⁹².

A press release by a group of nongovernmental organizations also shows that: “Besides them, the membership of the boards of directors also includes persons with questionable professional reputations, nominated by political parties as well as by the employees of the two institutions. For example, Cristian Nițulescu, nominated by PSD, was accused by several journalists of the News Department as the main conductor of censorship and of favoring PSD and candidate Adrian Năstase in the news programs of public television, culminating in the electoral campaign in the fall of 2004 (which determined the establishment of the Parliamentary Commission for investigation of the activities conducted by SRR and SRTV). Sorin Burtea (nominated by the employees of SRTV) was fined by the CNA for a show considered “manipulative”, directed against the amendment of the law on the operation of SRR and SRTV. The two also breached, through said actions, the Statute of public television journalists, a fact confirmed by the Ethics Committee of this institution. Also, Traian Bărbulescu (nominated by the SRTV employees), has in his turn, been the subject of several local and central press articles signaling the abusive management style, including possible illegal actions. Other members of the Boards of Directors are in a possible conflict of interest

⁹² “The present membership of the boards of directors does NOT guarantee the independence of public radio and television”, a statement signed by ActiveWatch - Media Monitoring Agency, the Centre for Independent Journalism, the Association of Press Professionals - Cluj, the Romanian Federation of journalists - MediaSind, the League of Journalists from Sibiu, the Patronal Association of Local Editors, the Convention of Media Organizations, the Professional Radio Association, the Foundation Soros Romania, Altphele, the Institute for Public Policies, the Union of Hungarian Journalists from Romania, the Association of Journalists from Romania, the Union of Journalists from the Public Television, the Union 2002 of SRTV, the Union of Professional Journalists, June 29, 2010 - www.ActiveWatch.ro

with the institutions that they are called to manage. For example, based on information from the Trade Registry and on his personal financial statements, the press showed that Bogdan Hossu owns a pack of stocks of 9 per cent in Accor Service SRL, a company that, through a direct contract with SRR, prints and supplies food tickets to the employees of the radio and television public service.”⁹³

The same organizations have expressed their disappointment towards the “manner in which the political parties, the Government and the Presidency have chosen to designate their representatives in the Boards of Directors of the public radio and television services, perpetuating the politic control over the institutions and postponing, once again, their promised reform for the public advantage.”⁹⁴

The Ministry of Tourism is paying journalists

The Ministry of Regional Development and Tourism (MDRT) has been accused in several cases of paying journalists. In April, HotNews.ro published an inquiry showing that the Ministry of Tourism undertook to sponsor a Realitatea TV show that was already being made without this money⁹⁵. Following direct negotiations, the Ministry of Tourism became in 2009 the co-producer of the show “Realitatea All Inclusive” and undertook to pay EUR 200,000.

The show was broadcasted for several months in 2010, but the Ministry of Tourism refused to make any further payments. Cătălin Popa, the executive manager of Realitatea TV, stated that the ministry blocked the contract because the television had criticized the governing party PDL. “Another strange fact is that, even if it seems to be in a difficult financial situation, Realitatea TV does not want to recover its debt in court, but announces that the sum may be considered a sponsorship for the Boc government and for the Romanian tourism”⁹⁶, wrote HotNews.ro.

The same ministry spent EUR 180,000 for trips offered to journalists, ONG members and people involved in tourism. The award announcement was meant for “the organization of educational and informative visits, in Romania, for the media representatives, tour-operators, representatives of local and foreign companies conducting tourism-related activities, representatives of nongovernmental associations or organizations conducting tourism-related activities, of the central or local public administration, other opinion

⁹³ Ibidem.

⁹⁴ Ibidem.

⁹⁵ “The peculiar fate of an EUR 200,000 contract: the Ministry of Elena Udrea does not pay, Realitatea TV gives up the money”, Attila Biro, Hotnews.ro, April 20, 2010.

⁹⁶ Ibidem.

leaders, local and foreign tourism specialists”⁹⁷. After an investigation, the Kamikaze magazine states that these contracts were awarded to a company that belonged to the family of a National Ministry of Tourism state secretary’s advisor, who also has other contracts in an amount of almost EUR 4 million with this ministry⁹⁸.

The arrest of Sorin Ovidiu Vîntu

On September 10, the owner of Realitatea TV was arrested for favoring Nicolae Popa, convicted *in absentia* to 15 years of prison for defrauding over 300,000 National Investment Fund (FNI) investors. The television reacted furiously to the owner’s arrest. According to Mihai Mălaimare, member of the CNA, a “fabulous degradation of the Romanian media”⁹⁹ followed, in the way the events were presented.

The CNA fined the Realitatea TV and Antena 3 channels with Lei 15,000 for “a lack of balance in presenting the opposing viewpoints, for the lack of distinction between facts and opinions, for breaching the right to one’s own image”¹⁰⁰. B1 TV received a summons.

The publication of telephone discussions between Vîntu and journalists followed, which contoured a media corporation completely subordinated to the whims and the interests of the owner. “You are not free, man. You like it, you work, you don’t like it you leave, what’s the big deal!” Vîntu says to Sergiu Toader, the former president of the Realitatea-Cațavencu Group. “Yes old mad, this is what I need, a very efficient organization, [that] answers the economic commands to which it is subject. Nothing more”¹⁰¹, he added.

In a discussion with Doru Bușcu, editorial manager of Academia Cațavencu, S.O. Vîntu also said: “One more thing, man: I don’t ever want to have this conversation: (...) since I began financing it, Academia Cațavencu has become an employer’s organization. It should meet the interests of the employer. The business interests of the employer. (...) Who likes it, can stay, and who doesn’t like it can leave. The jokes like editorial independence are over, I want to be able to do my own deals”¹⁰².

⁹⁷ “Udrea is spending an extra EUR 180,000 for walking ONG volunteers and journalists across Romania”, Kamikazeonline.ro, July 23, 2010.

⁹⁸ Ibidem.

⁹⁹ Mihai Mălaimare, CNA member, quoted by Hotnews.ro in the article “The Vîntu case on TV, as seen by the CNA” of September 21, 2010.

¹⁰⁰ “The Vîntu case on TV, as seen by the CNA: Opinions and deeds altogether, accusations without proof, total unbalance of the points of view. The result: Total fines of Lei 15,000 for Realitatea and Antena 3”, C. Ionescu, Hotnews.ro, September 21, 2010.

¹⁰¹ “Vîntu’s vision about the media: A very efficient construction that answers the economic commands to which it is subjected”, Hotnews.ro, October 18, 2010.

¹⁰² Ibidem.

“They are subjected to violence according to my interests. That’s all! This is what I’ve been trying to tell you. That, if we set as a strategy the fact that we shall support the interests of the government starting tomorrow, this media corporation, including Academia Cațavencu, shall support the governance act”¹⁰³, Vîntu also said, according to the transcripts.

The transcripts confirmed the censorship accusations brought by the journalists who had left the corporation a couple of months before and founded the Kamikaze magazine.

The Centre for Independent Journalism (CIJ) then wrote that the “transcripts are describing a way of thinking that limits the editorial freedom and imposes the promotion of a personal agenda to the disadvantage of a public interest agenda”¹⁰⁴. “It is the right of each media employer to decide the editorial line of the media channel, while complying with the principle of editorial freedom and the fundamental role of the press: that of working in the public interest. The obligation to correctly inform the public also appears in the *Romanian Audiovisual Law, art 3 (2)*: All providers of audiovisual media services have the obligation of ensuring the objective information of the public through the correct presentation of facts and events and to favor the free forming of opinions”¹⁰⁵, also signaled the Centre for Independent Journalism.

Although said transcripts have shown the uncensored face of the Romanian press, the manner in which they got to be published is debatable. CIJ has drawn attention that to the fact that “they are part of a case file pending with the Court of Law, thus being freely accessible by the press. Nevertheless, they present aspects from the private life of persons who do not have any connection with the case (<<favoring the felon>>). Such persons’ right to a private life has been breached not only by the press, but also by the state authorities, which had the duty of protecting this fundamental right. Art. 91 (3) of the penal procedure Code states: “After notifying the court, the copy of the support containing the recording of the discussion and the copies on the protocols are kept by the court clerk’s office, in special places, in sealed envelopes, at the exclusive disposal of the judge or the judicial group vested with solving the case”¹⁰⁶.

¹⁰³ Ibidem.

¹⁰⁴ “Viewpoint of the Centre for Independent Journalism on the publication of the transcripts from the file of Sorin Ovidiu Vîntu”, The Centre for Independent Journalism, October 19, 2010.

¹⁰⁵ “Viewpoint of the Centre for Independent Journalism on the publication of the transcripts from the file of Sorin Ovidiu Vîntu”, The Centre for Independent Journalism, October 19, 2010.

¹⁰⁶ “Viewpoint of the Centre for Independent Journalism on the publication of the transcripts from the file of Sorin Ovidiu Vîntu”, The Centre for Independent Journalism, October 19, 2010.

Moreover, the journalist Petrișor Obae (who appears in transcripts with a conversation from a journalistic documentation) claimed that a dangerous precedent is being created for the relationship with the sources. “The relationship of dialogue between the journalist and the source becomes, through this precedent and beyond the will of the persons involved in the journalistic process, a tripartite one, in which the third party (hidden behind the buttons) has the last word. A basic principle of the job - the confidentiality of the source - is utterly shattered”¹⁰⁷.

The discussion is by far from what Stelian Tănase, the person who was to be the next general manager of Realitatea TV, publicly declared: “The BBC rules will apply to the station point by point. These are journalistic rules that are very tough for Romania, for the local press, but we are trying to apply them from the point of view of the profession. [...] In our discussions, Sorin Ovidiu Vîntu undertook never to intervene, either telephonically or in any other way, in the editorial policy, in the programs”¹⁰⁸. The statement was given in front of the National Audiovisual Council, before this authority’s decision to extend the license of the television station. After the extension of the license, Stelian Tănase no longer acted as the editorial manager, therefore he was just a credible messenger who would convince the CNA of the fact that the television would be changing its editorial approach.

The Kamikaze magazine, prohibited at the Access Press kiosks

The magazine founded by the journalists who left Academia Cațavencu was prohibited in the distribution network of Access Press. The Kamikaze journalists claimed that the network was owned by two Cypriot offshore companies controlled by Sorin Ovidiu Vîntu, the very owner of the magazine they had left.¹⁰⁹ The magazine also submitted the document through which Liliana Spiridon, the administrator of Access Press, prohibited the sale of the magazine. “Any breach of this rule will be sanctioned according to the franchise contract’s clauses”¹¹⁰, mentions the document.

¹⁰⁷ “DEBATE: Alarm signal. The relationship journalist-source, seriously endangered by the SOV transcripts”, Petrișor Obae, PaginaDeMedia.ro, October 20, 2010.

¹⁰⁸ “The new manager Stelian Tănase: BBC rules shall apply <<point by point>> to Realitatea TV, through a project that Sorin Ovidiu Vîntu <<considered to be OK>>”, C.I., HotNews.ro, September 29, 2010.

¹⁰⁹ “Kamikaze magazine informs that it is prohibited in the press distribution network Access Press, <<controlled by Sorin Ovidiu Vîntu>>”, HotNews.com, March 29, 2010.

¹¹⁰ Ibidem.

The Censorship of the Gold Corporation

The most blatant case of economic pressure exerted by a company in 2010 is related to the Roșia Montană mining site. 12 well-known journalists holding editorial management positions (Robert Turcescu, Ioan T. Morar, Mihai Tatulici, Emil Hurezeanu, Doru Bușcu, Dragoș Nedelcu, Sorin Freciu, all belonging to the Realitatea-Cațavencu group; Livia Dilă - B1Tv, Floriana Jucan - Qmagazine, Vlad Macovei - Evenimentul Zilei, Rareș Bogdan - Ziua de Cluj, Adrian Bucur - Prima TV, Marian Voicu - TVR, Roxana Voloșeniuc - Elle¹¹¹) took a trip to New Zealand in August, a trip paid by Roșia Montană Gold Corporation (RMGC), the company that wanted to begin the mining operations. The trip cost EUR 10,000 for each guest¹¹². Contacted by the journalists, Robert Turcescu claimed that he was on vacation, and others said that the visit was an informative one and that it implied no obligation for them to write favorably about this project¹¹³. The luxury trip of an editor, on the expense of a company that may be the subject of journalistic documentation, may have a direct self-censorship effect upon the journalists who were subordinated to the respective editor.

This is not the first trip of this kind. “Between 2004 - 2010, local politicians and journalists from almost all the media corporations participated in trips to Finland, New Zealand and Spain, visiting mines that use technologies similar to the one that RMGC intends to use at Roșia Montană”¹¹⁴, wrote HotNews.ro, quoting a company that provides communication services to RMGC.

Most of the national televisions and newspapers broadcast advertisements from RMGC. Cotidianul launched the figure of EUR 12 million paid to the press over the last 3 years, especially to televisions¹¹⁵. An exception is the Adevărul newspaper, which in 2010 refused the advertisement motivating that: “Roșia Montană is a controversial project, with which we do not want to be associated. It is a project that I consider to be profoundly immoral”¹¹⁶, said Peter Imre, general manager of the Adevărul Holding.

On March 3rd, part of the newsroom of the Academia

¹¹¹ “Who’s in New Zealand with Roșia Montană? Turcescu, Tatulici, Hurezeanu, Livia Dilă”, Petrișor Obae, PaginaDeMedia.ro, August 23, 2010.

¹¹² “Robert Turcescu, Emil Hurezeanu and Mihai Tatulici, on an EUR 10,000 trip paid by Roșia Montană Gold Corporation”, Iulia Bunea & Valeria Cupă & Dan Străuț, Adevărul.ro, August 23, 2010.

¹¹³ “Roșia Montană- lured journalists pretend they are on vacation”, Iulia Bunea & Raluca Preda & Valeria Cupă, Adevărul.ro, August 24, 2010.

¹¹⁴ “Politicians and journalists from almost all corporations visited mines in Finland, New Zealand and Spain in 2004-2010. <<Obviously, RMGC supports the financial efforts of the trip>>”, C.I., HotNews.ro, August 24, 2010.

¹¹⁵ “Roșia Montană has given the press more than EUR 12 million over the last three years”, Dan Odagiu, Cotidianul.ro, August 27, 2010.

¹¹⁶ “Adevărul no longer wants publicity for Roșia Montană, Petrișor Obae, PaginaDeMedia.ro, July 30, 2010.

Cațavencu magazine quit, invoking editorial pressures, including in the subjects related to Roșia Montană¹¹⁷.

On July 6th, the freelancer journalist Tiberiu Lovin found in Săptămâna Financiară an advertising text for RMGC, presented as a journalistic article¹¹⁸.

On January 28, 2011, the Platform for Bucharest (an alliance of NGOs) reported that some articles of România Liberă and Capital, which harmed the interests of RMGC, disappeared from their websites shortly after being published. The 40 NGOs accused the publications of censorship¹¹⁹.

România Liberă responded to such allegations as follows: “the editors’ decisions strictly referred to the imperatives of clarity and concision, without, in any way, affecting the essential information in the article, but also the need that in such a controversial debate as the one surrounding the <<Roșia Montană>> project one should present both the points of view expressed by those who object to it and those of the people supporting it”¹²⁰.

A search for “Roșia Montană”: on România Liberă’s website shows, however, a series of articles that seem written by RMGC’ PR firm, such as “Roșia Montană, supporting Romanian rugby”, “Manufacturers support the Roșia Montană project” or “Roșia Montană Gold Corporation has a new vice-president of human resources”¹²¹.

Gândul got rid of Zoso from fear of Badea

In March, the Gândul newspaper invited a blogger well-known in the “Community” section on the site. The decision bothered Mircea Badea, the creator of the program “În gura presei” of the Antena 3 television. He suggested that, if the link does not disappear from the site, he would stop quoting said newspaper in his daily press review. Less than two hours after the end of the show, the link to the blog was removed from the Gândul website¹²².

Advertising

One third of the journalists interviewed in the “Media Transparency and Media Practices in Romania” study¹²³ admitted that what they write is influenced by advertising. Half of them think that the media channel’s owner influences the content aired on the channel. Petre Barbu, Forbes senior editor, wrote in an editorial that “The power of advertising people has increased considerably in the press. They dictate whatever should and should not appear with respect to their clients in the media”¹²⁴.

Pressure from the Authorities

Fined for a joke. In August, Stefan Aneculăesei, producer of programs on Radio Nord Est FM Iași, was fined Lei 200 for telling his friends a cop joke, on the street: “Do you know how many cops you need to change a light bulb? Three. One to hold it and two to rotate the table.”¹²⁵ A policeman heard him and took him to the station, where he was fined. In his protocol, the policeman wrote: “The offender was caught, together with B.R. and D.C. in the galleries on the Ștefan cel Mare și Sfânt Boulevard and, when seeing the community police patrol, said insulting things to them (jokes about policemen), damaging to the dignity and honor of both the institution they represent and of themselves”¹²⁶. “I filed an appeal and I am waiting to be called to the court of law together with my witnesses”, Stefan Aneculaesei told FreeEx in November.

The Supreme Magistrates Council (CSM) judges freedom of information. Judge Carmen Mihaela Tropcea, chief inspector of the CSM, claimed, in an official document, that a journalist asking for the opinion of a prosecutor for an article, has a private discussion, and any recording of the interview would be “unauthorized”. The claims were made in response to a complaint made by journalist Mălin Bot, after former Directorat for Investigation of Organized Crime and Terrorism (DIICOT) prosecutor Carmen Martinov used a colorful language when he called her with respect to an investigation into the Timișoara real estate mafia¹²⁷. The journalist had notified the CSM, asking whether the prosecutor’s conduct violates the Statute of Magistrates.

“The conversation appears to be private in nature”, is CSM’s response. “The private conversation is aired in a public

¹¹⁷ “Academia Cațavencu editors want to leave and set up a new newspaper. Founders prepare to <<start from scratch, like in 1990>>”, Costin Ionescu, HotNews.ro, March 3, 2010.

¹¹⁸ “How much does an A cost? A for Advertising”, Tiberiu Lovin, ReporterVirtual.ro, July 6, 2010

¹¹⁹ “Open Letter: Censorship in România Liberă?”, FreeEx, blog.ActiveWatch.ro, January 28, 2011.

¹²⁰ “România Liberă dismisses (in part) the censorship allegations”, ActiveWatch blog, January 31, 2011.

¹²¹ Search for “Roșia Montană” on România Liberă.ro site.

¹²² “<<Gândul>> got rid of Zoso from fear of Mircea Badea”, Alina Vătăman, EvZ.ro, March 5, 2010.

¹²³ “Media Transparency in Romania: Final Professional Report”, dr. Katerina Tsetsura & collab., Gaylord College of Journalism and Mass Communication, University of Oklahoma, USA, 2010. Study conducted on a sample of 66 journalists and 127 specialists in public relations.

¹²⁴ “Forbes. Depression of the advertising market”, Petre Barbu, Adevărul, October 7, 2010.

¹²⁵ “Fined for telling cop jokes”, Libertatea.ro, September 2, 2010.

¹²⁶ Ibidem.

¹²⁷ “CSM: Journalists are not allowed to record prosecutors and breach <<the private life>> of the same if they make such recordings public”, Mălin Bot, MalinBot.wordpress.com, December 20, 2010.

place without the consent of the prosecutor, which raises the legitimate question regarding the existence of your right to air an unauthorized recording [...]. We are faced with an unauthorized recording, which no longer offers you protection, in your capacity as a journalist, from the point of view of the right you have in the ECHR meaning”, according to the CSM chief inspector.

Exhibition about the miners’ riots censored. In June, Representatives of the Bucharest Streets Administration (ASB) interfered with the content of the photo exhibition “On-Site Findings” dedicated to the miner’s riots of June 13-15, 1990 and organized by the Institute for the Investigation of Communist Crimes and the Memory of Romanian Exile. The Streets Administration telephonically requested the withdrawal of the captions of the photos in the Universitate passage, on the grounds that they were exhibited in the absence of a written authorization. Furthermore, the ASB representative claimed that the texts accompanying the photographs in the exhibition “call for violence” and invoked, in support of this decision, anonymous verbal complaints. The exhibition’s organizer complied, in a desire to avoid any conflict with the authorities¹²⁸.

Disproportionate reaction. In November, masked IPJ (County Police Inspectorate) special forces and DIICOT prosecutors raided the home of an 18-year old student from the Timis county, made his family members put their face to the floor, detained the young man, questioned him for several hours and confiscated the hard drive from his computer. Student Gabriel Morărașu had hacked into the County School Inspectorate’s website to post offensive messages against certain politicians. ActiveWatch and other commentators publicly criticized the authorities’ disproportionate reaction to the young man’s gesture¹²⁹.

“Manele” prohibited. On February 28, the Galați Mayor’s Office banned “manele” in the town’s buses and minibuses.¹³⁰ The measure was taken together with the requiring drivers rule of wearing decent clothing. A month later, Cluj authorities banned taxi drivers from listening to this music genre during their working hours, throwing trash out of the car windows and eating seeds. “We are being dragged, against our will, into various scandals. I wish the Cluj people to only listen to loud heavy-metal in their taxicabs”¹³¹, said singer Gabi from Oradea (a well-known “manele” interpreter).

¹²⁸ “How to censor a photo exhibition”, Maria-Adriana Popa, blog. ActiveWatch.ro

¹²⁹ “Open letter: 2011 wishes for the Minister of Administration and Internal Affairs, Mr. Constantin Traian Igaș”, FreeEx, ActiveWatch.ro, January 6, 2011.

¹³⁰ “The Mayor’s Office decided: Guță and Salam’s manele are prohibited in Galați”, Corina Mihăilă & Vali Truțașu, Adevărul.ro, February 28, 2010.

¹³¹ “Manele, prohibited in taxicabs!”, Libertatea.ro, March 31, 2010.

Another month later, Iași’s turn came: the organizers of the Beer Festival prohibited “manele” by contract. “We shall have more toilets, more cleaning people. We shall contractually prohibit manele”¹³², declared Bogdan Mindrigiu, the festival’s organizer.

In all cases, the “manele” ban was seen as a “hygienic” method, pertaining to the same class as decent appearance and cleanliness. No reference to other musical genres was made. The press enthusiastically recounted in favor of such prohibitions.

Mayor cannot bear to be booed. The Mayor of Călărași was booed by the city’s citizens in a festivity dedicated to the celebration of 415 years since the documentary attestation of the city. Nicolae Dragu could not bear the booing and reacted immediately: “You’re scum. Goodbye, scum. You will never have a mayor in your lives again. You were in the gutter. Is this the thanks I get? Aren’t you ashamed, you bastards? “. After which, Dragu continued: “You do not represent Călărași, you are a bunch of hooligans and punks, goodbye. Long live Călărași! Why are you booing? I’ve taken you out of the gutter”¹³³, and then left the stage, to the locals’ continued booing.

Distribution blocked in Tulcea. At the end of July, Tulcea no longer had any points for the distribution of local and central press. “SC Mega Group company, which publishes the daily newspaper Obiectiv, was ordered to remove, within 48 hours, all four press sale kiosks erected legally, under a lease agreement, on the city’s public domain. Today, in order to buy a local or central newspaper in the city of Tulcea, you must go to outskirts of the city, where there are only six press sale kiosks left, which belong to another authorized company”¹³⁴, wrote Jurnalul Național daily.

Contacted by FreeEx, representatives of Tulcea’s Obiectiv newspaper reported that pressures on distribution in their newspaper kiosks began when they published negative news regarding Mayor Constantin Hogeș. Although the distribution points had not had a street trade authorization for three years, the mayor apparently reacted only after said materials were published. In addition, the former manager of the Obiectiv publication had announced his intention to run for the Mayor’s Office.

The representatives of the Tulcea Delta and Acum

¹³² “Manele, prohibited under the law in Iași!”, Felix Guzga, ZiarulDelasi.ro, April 20, 2010.

¹³³ “VIDEO. The Mayor of Călărași, Nicolae Dragu, to the electors: You are scum. Goodbye, scum, I have taken you out of the gutter.”, R.M., HotNews.ro, September 28, 2010.

¹³⁴ “Tulcea - no access to local and central publications”, Jurnalul.ro, July 28, 2010.

newspapers also declared for FreeEx that they had experienced pressures from Mayor Hogeia in the past. The Mayor had apparently asked the people in the Obiectiv and Șoc networks not to distribute Delta, because it presented negative materials against him. The newspaper began to be distributed in stores. “It got to the point where we had to sell the between including socks and underwear”, Marcel Marin, director of the daily newspaper Delta, told FreeEx. Regarding the newspaper Acum, the mayor apparently decided to shut down the distribution kiosks, after several months during which the publication had postponed the payment of rent. Coincidentally or not, the mayor’s decision only came after the Acum newspaper published his upkeep debts. A second example that the mayor had “discovered” said newspaper’s disputes with the Mayor’s Office only after the publication of articles which were unfavorable to him.

Contacted by FreeEx, Tulcea Mayor Constantin Hogeia refused to comment. At that time (July 2010), in Tulcea only six press distribution kiosks were left, located on the outskirts of the city.

At this time the situation of the distribution of newspapers in Tulcea has been remedied. The Mayor made the press distribution points the object of a tender. The kiosks have been taken over by several companies, thus avoiding monopoly.

Conclusions:

- Scandals involving moguls showed that they control the editorial policy of media channels (and they change it depending on their economic, political and legal interests). These employers understand deontological ethics only as an ornament that they can flaunt from time to time, and many journalists (and editorial managers) of their media corporations accept the situation and participate in achievement of their employers’ interests.
- Encourage by the media’s difficulties to self-regulate, politicians in power have exercised many pressures on journalists who criticized them.
- Including the media among the national security weaknesses has paved the way to tougher measures against freedom of expression.
- 2010 has shown that money can buy silence or media partisanship. In the Roșia Montană case, the media has succumbed to many pressure and censorship techniques.
- Press distribution has remained a segment that is vulnerable to censorship acts.

Recommendations for journalists and editors:

- Firmly limit any editorial pressure attempts (and illegal interference) and publicly signal such situations. Invoke the conscience clause in the collective employment contract.
- Inform media organizations if you are victims of pressures or censorship.
- Publicly reveal (together with the article) the funding sources (other than those of the newsroom) for any business trips of the press.

Recommendations for politicians, authorities and the business environment:

- Freedom of expression and freedom of the press are vital for a democratic society. Support and protect freedom of expression and diversity of expression in all its forms.
- Support the press that disseminates relevant and verifiable editorial content. This, in turn, supports a proper framework for innovation, a healthy business environment and a competent political class.
- Respect the editorial independence of the press.
- Free and responsible press is the best environment to communicate your messages to the public.

CHAPTER 3. AGGRESSION, THREATS, INSULTS

In 2010 as well, journalists have been the victims of aggression, threats, intimidations and insults. Such aggressive behavior has often been manifested by politicians, civil servants and, to an alarmingly high extent, by police officers themselves.

Athletes do their “Warm Up” with journalists

Journalist Viorel Sima was hit, in the second month of the year, by chess player Elisabeta Polihroniade (75 years old). “After 17 years of being a journalist I would have never thought that something like this could happen to me. I have written about boxing and other tougher sports, yet I was assaulted at a game of chess!”¹³⁵, declared the journalist. Viorel Sima was assaulted because he had just filmed the chess player hitting another person, with his mobile telephone¹³⁶.

On July 15th, former tennis player Ilie Năstase cursed and threatened a female journalist who was filming him with her mobile phone while he was taking a walk with a female companion on a street in Timișoara¹³⁷. “If you have the right to take pictures of me and film me then I also have the right to react to it. If someone comes over and bothers me then I also have my right to do as I want. I am not a bad person, but if someone approaches me in a bad way and shoves a camera in my face, I react too. She (i.e. the journalist) has no more rights over me than I have over her. And when they pass a law saying that whoever comes and bothers me is also going to jail, just like I would if I had beaten him up, then things will be better in Romania. No one has a higher right over me than I have over them. Why? Because they’re journalists and I’m what, a puppet?”¹³⁸, the former tennis player subsequently declared.

MEP Becali cursed journalist Cornelia Popescu

On March 10th, George Becali, Member of the European Parliament, cursed journalist Cornelia Popescu from the

Ziua Veche¹³⁹ publication in a telephone interview regarding the contradiction in the MEP’s statements of interest. “So what do you want now, to suck c..., what do you want? That’s right, suck my c..., what are you, an investigator? Are you a prosecutor? I shove my c... in that declaration of wealth and in you! That’s right, suck my c...!”¹⁴⁰, MEP Becali told journalist Cornelia Popescu.

The politician’s behavior was publicly condemned by the organizations Reporters Without Borders and ActiveWatch, which stated they were “outraged by the vulgar and obscene remarks” addressed to the journalist by Becali. “The statements of financial interests that Members of the European Parliament present are not only compulsory but also of public interest. The journalists have an obligation to ask questions about these statements and the MEPs must provide detailed answers. Becali’s absurd reaction fails to hide his desire to avoid this subject. The exact nature of his financial interests and his possessions must be explained”¹⁴¹, the two organizations stated in a press release sent out in Romania but also to the European Parliament.

Journalists assaulted by the spokesperson of the Municipal Hospital of Rădăuți

During the same time period, journalist Alina Băbeanu and cameraman Sorin Mateciuc, correspondents of the television network Realitatea TV in Suceava were brutalized by the spokesperson of the Municipal Hospital of Rădăuți, cardiologist Doru Ilie. Even though the journalists had entered the hospital with the consent of the manager, in order to speak to two teenage girls who had been hit by a car, the spokesperson, who had been called from home by the guard at the entrance in order to greet the journalists, lost his temper. “He punched the camera several times, pushed my colleague into a locker, pulled us both by our clothes, cut off our way with help from the guard and pushed us forcibly into the elevator, after which he escorted us all the way to the main gate of the hospital. While we were outside the general manager also arrived and doctor Iliescu threatened to resign if he allowed us to film”¹⁴², declared journalist Alina Băbeanu. Following the investigation initiated by the management of the hospital, the doctor was relieved from his position of spokesperson and five percent of his salary was cut off for the following three months”¹⁴³.

¹³⁵ “Violence in chess: Elisabeta Polihroniade punched a journalist”, *Adevărul.ro*, February 20, 2010.

¹³⁶ “Elisabeta Polihroniade assaulted two people at the General Meeting of the Romanian Chess federation. The chess player denies that the incident ever happened”, *V.M. HotNews.ro*, February 20, 2010.

¹³⁷ “Ilie Năstase curses and threatens a journalist - VIDEO”, *Antena3.ro*, August 29, 2010.

¹³⁸ “Ilie Năstase curses a reporter who was filming him and threatens to break her nose if she doesn’t turn off the camera”, *R.M., HotNews.ro*, August 29th, 2010.

¹³⁹ “We fondled the interests of MEP Becali. He shoved his c... in us!”, *Ziua Veche, ZiuaVeche.ro*, March 10, 2010.

¹⁴⁰ “How an MEP curses”, *VideoNews.Antena3.ro*, March 15, 2010.

¹⁴¹ “Romania: Outrageous behavior of MEP George Becali towards a journalist”, *ActiveWatch.ro*, March 15, 2010.

¹⁴² “Journalists brutalized by the Rădăuți Hospital Management”, *Cristina Rusu, MonitorulSV.ro*, March 10, 2010.

¹⁴³ “Sanction for doctor Doru Iliescu in the case of the brutalized journalists”, *Cristina Rusu, MonitorulSV.ro*, March 12, 2010.

Civil servant acting aggressively towards journalists in Pașcani

Also in March, the financial advisor of the Local Finances Service in Pașcani, Dumitru Damian, cursed a reporter from the network TV BIT. “You’re a rag”, “You’re nothing”, “Go to hell” - he told the journalist, offended by an older article, which stated that one of the man’s children was to unjustly benefit from welfare.¹⁴⁴

Lei 2,000 on Cătălin Docea’s Head

On April 27th, The Convention of the Media Organizations (COM) sent an open letter to the authorities where it pointed out that “The physical integrity and even the life of journalist Cătălin Docea, manager of the Ziarul Văii Jiului daily newspaper from Petroșani, could be in danger”¹⁴⁵. COM requested protection from the authorities for journalist Docea considering that, according to the evidence (decisive and alarming), an organized group from Valea Jiului was willing to pay Lei 2,000 for the physical assault of the journalist. Cătălin Docea claimed that the people involved in this “business” led him to believe that they had information about his schedule, his residence, the routes he usually took and his car. The journalist believed that all these messages were meant to intimidate him and make him understand that he was being followed and that “something could happen to him at any time”.

In the past few years Cătălin Docea has initiated several journalistic investigations that targeted representatives of the administration and of public institutions with duties in maintaining public order in the Valea Jiului region. On April 19, 2010, the journalist filed a complaint with the Prosecutor’s Office affiliated with the Hunedoara Tribunal, by which he claimed that his personal integrity and professional activity were being jeopardized by representatives and former representatives of the Police, administration and business environment in Valea Jiului, in complicity with members of the criminal underworld. When contacted by FreeEx, Cătălin Docea told that the Prosecutor’s Office ruled out the criminal case against Bălăeț Dumitru, concluding that the fact claimed by the journalist did not occur. The Court did recognize its existence but decided that “the fact lacks one of the integrant elements of a felony”. Since the completion of the trial the journalist has not received any further threats.

¹⁴⁴ “Civil servant with the reflexes of a hoodlum”, ZiarulOrizont.ro, March 24th, 2010.

¹⁴⁵ “The Media Organizations Convention asks for authorities’ protection in the case of journalist Cătălin Docea”, ActiveWatch.ro, April 27, 2010.

Journalist beaten up by the check men

At the beginning of May, Click! magazine reporter Călin Radu was beaten up by train check men, as “punishment” for the articles the journalist had written about the bribes taken by employees of CFR (the Romanian Railways). The reporter was lifted up, thrown to the floor and hit right in the compartment occupied by the check men and police officers dressed as civilians¹⁴⁶.

A poacher assaulted a cameraman of the TV Neptun television channel

On May 8th, Constantin Dărac, under investigation for poaching and the transport of game from poaching, assaulted cameraman Marius Panțu of the TV Neptun television network in the Zorile village of the Adamclisi township in Constanța county. The 42 year old male was arrested for offence against good manners and the disturbance of public peace and order. According to the prosecutors, the aggressor threw the cameraman to the ground and hit him with his fists and feet, after which he smashed the camera with a rock and stole the cassette.¹⁴⁷ “In fact, three individuals were holding me, and he twisted my arm and took my cassette”, said the cameraman when interviewed by FreeEx. When asked how things evolved, Marius Panțu said: “Basically, nothing else happened. The prosecutor suggested that I present myself at the trial as witness instead of victim, saying that I have more chances of winning that way. Personally, I no longer trust the authorities. The prosecutors should confront criminals. I am very disappointed. I was left with a broken camera, with a bitter taste and with the terror of what I’ve been through. I’ve been working in the media for a very long time but frankly I’ve started to become indifferent to it”.

The victims of tabloid celebrities

A reporter who insisted on getting an interview in a club from the tabloid “celebrity” Codin Maticiu was brutalized, in June, by the man’s bodyguards’.¹⁴⁸ Reporter Adrian Velea from the TV program “Acces Direct” received a head slam and the camera of his cameraman was destroyed. The police initiated an investigation into this incident. When contacted by FreeEx, Adrian Velea said that Maticiu and one of his bodyguards were put under criminal prosecution, the former for issuing threats and the latter for assault.

In July, Monica Columbeanu was accused of having

¹⁴⁶ “The check men beat me up good on the train”, Click.ro, May 9, 2010.

¹⁴⁷ “The man who brutalized the journalists is still under arrest”, Cristina Carapcea, TelegrafOnline.ro, June 17, 2010.

¹⁴⁸ “Video. Codin Maticiu’s guards brutalized a reporter”, Libertatea.ro, June 15, 2010.

intentionally hit with her car an amateur paparazzo from the CanCan magazine, who was attempting to photograph her.¹⁴⁹ “We approached them with a video camera and a photo camera intending to take an interview. We wished Mr. Columbeanu <<Happy Birthday!>> and asked him how he was feeling at the age of 53, at which point he cursed us. Mrs. Columbeanu got in the car and I assume something happened then. An intense conversation broke out between the two. From that point on things changed. I wanted to leave, I wished them a good evening, at which point Mrs. Columbeanu stirred the wheel and hit me. She hit me in the knee with the front of the car and I fell to the ground. When I put my foot down I felt a terrible pain. After she hit me she started smiling, maybe she thought she had only made a joke”¹⁵⁰, declared the photographer.

Prime Minister Boc defends himself against journalists with the help of the SPP (Guard and Protection Service)

On June 15th, Prime Minister Emil Boc asked SPP agents to install a protection cord against journalists in the area of the Parliament’s meeting room where the voting of a censor motion was about to take place. A journalist crept underneath the cord and tried to reach the prime minister, but was detained by SPP agents¹⁵¹, and the altercations between SPP agents and journalists escalated and resulted in torn up clothes and threats. Eventually the prime minister asked the SPP agents to “leave the journalists alone”.

Journalist from Dâmbovița brutalized by an employee of the County Football Association

In June, journalist Costin Mihai was brutalized while doing a feature report at the Dâmbovița County Football Association. According to an official statement of the Dâmbovița County Police Inspectorate, “On June 28, 2010, around 11am, the police headquarters of the Târgoviște municipality received a call on the emergency telephone number 112 from M. Costin, employee of a local television network, who claimed that while he was in the vicinity of the County Football Association in the Târgoviște municipality, he was brutalized and insulted by N. Șerban. A police patrol was dispatched at the scene who, after the preliminary investigations, determined that in the course of that day, at around 10:45 am, M. Costin was brutalized and threatened by an employee of the institution in question, while doing

a feature report there. M. Costin went to the police headquarters of the Târgoviște municipality where he filed a complaint against N. Șerban for the offences of assault or other acts of violence and threats. The investigation for the correct establishing of all causes and circumstances of the unfolding of the event is underway. Upon its conclusion a legal solution will be forwarded to the Prosecutor’s Office”¹⁵².

Relative of criminal priest sends journalists running

At the end of June, journalists from the television networks Prima TV and Kanal D, present at the funeral of priest Deneș Cseh, who strangled his own children and then committed suicide, were brutalized by a relative of the murderer.¹⁵³ Mihalcsa Jozsef, subsequently identified by police officers, tried to prevent the access of the journalists to the funeral, threatened them and smashed the camera of a TV operator.¹⁵⁴

Victor Ciutacu, threatened while shopping

Journalist Victor Ciutacu was verbally assaulted by two individuals, in August, on the premises of a shopping center. “There were two of them, in their mid 30’s. One was more aggressive. I didn’t pay much attention to them because I was with a child, so my main concern was the child. They came after me when I was leaving the mall, cursing me and accusing me and the network I work for that we are liars, that we stir the people against president Băsescu and that we falsely claim that the quality of life in Romania is very low, and that they are living a very good life in Romania”¹⁵⁵, Victor Ciutacu said. “It would be quite lame to file a complaint, since I was not harmed in any way, I don’t have the tiniest scratch on me, so as to go and file a complaint with the Police. I was only cursed and threatened but physically I am all right. I suppose the police could take notice of this, if they feel the need to, since this was all over the media and they could ask for the video recordings”¹⁵⁶, the journalist also added.

¹⁴⁹ “Monica Columbeanu accused of having intentionally hit a photographer with her car - VIDEO”, Mediafax.ro, July 17, 2010.

¹⁵⁰ “Monica Columbeanu got in her car drunk, hit a paparazzo then drove away from the scene”, Agenda.ro, July 1, 2010.

¹⁵¹ “Altercations resulting in torn up clothes and threats of arrest between journalists and SPP agents in parliament”, Mediafax.ro, June 15, 2010.

¹⁵² “Journalist Costin Mihai claims he was beaten at the County Football Association”, Marius Buga, Sock.ro, June 28, 2010.

¹⁵³ “Târgu-Mureș: UPDATE Police found the identify of the man who brutalized journalists at the funeral of priest Denes Cseh”, Claudia Sas, Adevarul.ro, June 30, 2010.

¹⁵⁴ “Journalists from Prima Tv and Kanal D brutalized at the funeral of Unitarian priest and his two children”, Carol Andrei, OradeaSibiu.ro, June 30, 2010.

¹⁵⁵ “Victor Ciutacu, assaulted by two sympathizers of president Băsescu”, Jurnalul.ro, August 10, 2010.

¹⁵⁶ Ibidem.

The HotNews sun “heats up” the atmosphere

In October, Avram Veler, the mayor of the Măgura Ilvei township from the Bistrița-Năsăud county cursed, during a telephone conversation, the reporters of the news webpage HotNews, dissatisfied with a journalistic investigation which concluded that he had paid EUR 400,000 for a contract during an auction suspected of being faked.¹⁵⁷ “F.k you with your sun ...”, said the mayor, alluding to the HotNews logo.

Physical “Rehabilitation” Among Editors-in-chief?

On October 15th, Răzvan Bibire, editor-in-chief of the newspaper Ziarul de Bacău, in Bacău county (owned by close acquaintances of mayor Romeo Stavarache¹⁵⁸), claimed that he was punched by Lucian Bogdănel, the manager of the media corporation Deșteptarea, from the same county (sponsored by Dumitru Sechelariu). “Today, during the protest in front of the PDL office in Bacău I noticed that I was being photographed/ filmed with a mobile phone by a certain gentleman who happened to be the manager of the media corporation Deșteptarea, sponsored by Dumitru Sechelariu. I also took a few pictures of him and then I let him be. The gentleman however felt offended, because, of course, only he had the right to take pictures of others while no one was allowed to take pictures of him. So he came to me, punched me in the stomach and yelled in my year: <<why don’t you go take pictures of your wife>>”¹⁵⁹, told Bibire on his website. When contacted by FreeEx Lucian Bogdănel denied having hit Bibire: “I can’t comment on make-believe tales of fellow journalists. I don’t have such violent outbursts pertaining to the animal kingdom. He (i.e. Bibire) wrote this story on his personal blog. If I had actually hit him it would have been a major subject which should have been covered by his newspaper. On his personal blog he has been beaten up six more times since then. It’s like he gets beaten up by everyone. I did tell him that he could take pictures of his wife as well, since he had such a sophisticated camera. If I were you I would be careful when dealing with his stories.”

Romanian police officers brutalize journalists

In 2010 numerous situations have been recorded, when police officers acted abusively in relation to the fundamental

¹⁵⁷ “Audio: How a PDL mayor from Bistrița-Năsăud explains that he paid a 400,000 Euro contract during an auction suspected of being faked. Plus, a message for HotNews reporters: F.k you with your sun...”, Attila Biro, HotNews.ro, October 21, 2010.

¹⁵⁸ “The last canon of Stavarache”, Mirela Romanet, Jurnalul.ro, June 13, 2008.

¹⁵⁹ “Can a tongue blow up?” Răzvan Bibire, Contrasens.com, October 15, 2010.

rights of freedom of speech and access to public interest information. At the beginning of 2011 ActiveWatch sent an open letter to the Minister of Administration and Internal Affairs, Constantin Traian Igaș, to bring such abuses to his attention.¹⁶⁰

Cluj. In May, a journalist from the city of Cluj was bullied by a police officer dressed in civilian clothes because the man took a picture in the vicinity of a mall where police officers were checking a suspicious suitcase abandoned in a trash can. “I was in front of the mall, talking on my mobile phone and a police officer warned me not to stand on the stairs of the commercial complex. I climbed down the stairs and remained there to see what was going on. When I saw the SRI (Romanian Intelligence Service) van I understood what was going on and took out my mobile phone to take a picture. That very moment a man approached me, grabbed my hand and dragged me with him while at the same time yelling that I delete the picture immediately,”¹⁶¹ recalled the journalist. “In just a few seconds [...], a man dressed as a civilian grabbed his arm, threatening him that if he didn’t delete the picture he will be leaving with the police. [...] The gentleman forcefully dragged him to the police van, where I saw them having an intense conversation. I found completely inappropriate the behavior of the man who, without any solid arguments and without identifying himself in any way, jerked my friend away,”¹⁶² said a friend of the journalist.

Bucharest. In August, blogger and freelance journalist Mihai Șerban was hit by an officer of the law while filming with his mobile phone a police vehicle parked on the second lane of the road, at midnight, without having the light signals turned on.¹⁶³ The blogger then received a fine for illegal street-crossing while filming. The incident is not unique. Even in 2009 several recordings were posted on the internet, presenting situations where simple citizens were asked to identify themselves and/or escorted to the police section just for exercising their right of filming/photographing police officers.¹⁶⁴

Suceava. In October, journalist Dinu Zară from the city of Suceava was brutalized in the presence of a police officer who did not intervene to appease the conflict. Initially the police officer tried to discourage the journalist from filming the area where a traffic accident had just taken place and addressed him ironically: “Come on paparazzi, give us a

¹⁶⁰ “Open letter: 2011 greeting for the Minister of Administration and Internal Affairs, Constantin Traian Igaș”, ActiveWatch.ro, January 6, 2011.

¹⁶¹ “Bomb at Iulius Mall. In the middle of the commotion a journalist from Cluj was brutalized”, Nicușor Ciorbă, FTR.ro, May 27, 2010.

¹⁶² Ibidem.

¹⁶³ “Long live the Romanian Militia of the 21st century”, Cristian China-Birta, Chinezu.eu, August 24, 2010.

¹⁶⁴ “Abuse of the Târgoviște police, February 2009”, Youtube.com, February 11, 2009.

break... get out of here”.¹⁶⁵ Encouraged by this attitude, an acquaintance of the man who had caused the accident hit the reporter across the face, under the gaze of the same police officer who watched the scene without interfering. The journalist asked the police officer to intervene and ID the aggressor but his plea was refused, which gave free range to further threats and insults aimed at him. “Although I asked him to intervene, I told him that I wanted to file a complaint against the aggressor and asked him to identify himself, the police officer, whose name I later found out to be Alexandru Duțuc, refused, and with this behavior he encouraged the aggressor who then once again threatened to beat me. I find it incredible that you can be attacked on the street, in front of a police section and right in front of a police officer, without him intervening,”¹⁶⁶ said the journalist who filled a complaint with the police and the Prosecutor’s Office.

Reșița. In December, journalist Mircea Popovici from the Reșița branch of the Antena 1 television network was assaulted by the masked agents of the Border Police because they were filming a violent raid that the agents were undergoing in a local dwelling. According to witnesses, the aggressors destroyed his video camera, threw him to the ground and threatened him with a gun to his temple. “I was filming on public domain how the masked agents were jerking and hitting two young men. They broke the jaw of one of them. They threw me to the ground, told me not to move and put the gun to my temple. I explained to them that I was a journalist but in vain, they took my video camera and broke my microphone,”¹⁶⁷ recalled the journalist.

Târgoviște. In November, The Romanian Federation of Journalists - MediaSind protested against the assaults of the community police in the city of Târgoviște on a number of journalists from the media corporation Artpress.¹⁶⁸ On November 25th, a team from this corporation was bullied by a police officer at the SC Termica Târgoviște company, while the journalists were trying to find out the reason of an eventual shutting down of the supply of hot water and heat during the winter. In the same day, the founder of the Artpress media corporation, Teodor Vasiliu, was beaten up, thrown to the ground and had his head slammed against a radiator by the police officers who were ensuring security at the Târgoviște Mayor’s office.¹⁶⁹ Teodor Vasiliu told FreeEx that he filed a complaint but the Prosecutor’s Office in Târgoviște

decided to rule out the criminal case against the aggressive police officer. “I only tried to bring to a public Mayor’s office meeting a young man who grew up in an orphanage and had no house, no job and no parents. The police officers, now some sort of Mayor’s office guards, didn’t let him pass and hit him. I jumped to his defense and placed myself between him and the police officers who were unjustly beating him. This is how I also ended up being beaten. I am extremely displeased and disappointed and there are many other journalists like me. I have lost all confidence in public institutions,” said the journalists, who gave up on filing a second appeal, out of lack of time.

In September 2010, ActiveWatch organized a debate with the spokesperson for the Bucharest Metropolitan Police, Commissioner Christian Ciocan, which was attended by bloggers and journalists. The Police Representative encouraged the interlocutors to film/photograph any situation that could be an example of abusive conduct on behalf of the police officers, but also mentioned that police officers are allowed to break any traffic law, except for those in conjunction with railway traffic, but they are not allowed to consume alcoholic beverages during work hours. Also, “police officers standing in the middle of the street can only be filmed from the sidewalk because the law does not allow pedestrians to stand on the traffic way,”¹⁷⁰ according to Commissioner Christian Ciocan. The majority of the bloggers and journalists present at the debate left discouraged. This was because, although they have the right to film or photograph police officers, regardless of whether it is or not during work hours, as long as they are wearing a uniform, any possible hostilities posed by the law enforcing personnel can at best be sanctioned eventually by their superiors and not (always) prevented. The commissioner also mentioned that “police officers don’t attack, police officers defend themselves”.¹⁷¹

Romanian journalist brutalized by Bulgarian authorities

In August, The Romanian Federation of Journalists - MediaSind sent a memorandum to the Ministry of Foreign Affairs (MFA) in which it asked for the support of the authorities in the case of journalist Marius Șerban who was sent to a set-up trial in 2009 in Bulgaria, after he entered in a conflict with the parking mafia.¹⁷² On August 20, 2009, while in a documenting visit in Bulgaria, Marius Șerban found his car moved by the vehicle pick-up firm and immobilized

¹⁶⁵ “A journalist from Suceava claims he was brutalized in front of a police officer”, Webtv.Realitatea.net, October 11, 2010.

¹⁶⁶ “Journalist brutalized in the view of the police. VIDEO”, Sergiu Rusu, Evz.ro, October 11, 2010.

¹⁶⁷ “A journalist from Antena 1, brutalized by the masked agents of the Border Police!”, Victor Nafiru, Argument-CS.ro, December 31, 2010.

¹⁶⁸ “Journalists from the Media Corporation ARTPRESS in Târgoviște brutalized by the community police”, MediaSind.ro, November 26, 2010.

¹⁶⁹ “Criminal attack of the community police!”, Laura Manafu & Andrei Vasiliu, JurnalDeDâmbovița.Artpress.ro, November 26, 2010.

¹⁷⁰ “Christian Ciocan: Police officers don’t attack, police officers defend themselves”, Maria-Adriana Popa, blog.ActiveWatch.ro, September 23, 2010.

¹⁷¹ Ibidem.

¹⁷² “MFA response to the RFJ MediaSind memorandum concerning the trail of Journalist Marius Șerban in Bulgaria”, BadPolitics.ro, September 15, 201.

in another parking lot, despite having parked it legally. Because he did not agree to pay the tax that was claimed the journalist was brutalized by an employee of the parking lot who, upon the arrival of the police officers pretended that he was the one attacked and filed a complaint with the police. The Romanian journalist said, however, that there had only been some pushing involved, a fact confirmed by his colleague, Corina Nistor, who had witnessed the entire event. “Later, I was arrested for 24 hours, I was humiliated, intimidated, forced to sign documents written in Bulgarian (I didn’t sign the declarations presented by the prosecutor, but I was forced to sign those of the police officers, upon being released, in the absence of an interpreter)”, Marius Șerban said in a memorandum addressed to MFA. In December, the journalist was found not guilty by the Varna Tribunal. The alleged assaulted party filed a second appeal. “The biggest problem is that people pay these parking taxes instead of opposing them, and Romanian authorities don’t care, unless they are being pressured,” Marius Șerban told FreeEx.

Conclusions:

- Politicians, public servants and police officers were the main aggressors of journalists in 2010.
- When they are not aggressors of journalists themselves, some police officers passively assist at attacks against them.
- Lawsuits against aggressors are time-consuming and abound in bureaucratic hindrances, which makes the assaulted journalists lose their confidence in authorities and the motivation to go all the way in Court.

Recommendations for the authorities:

- Respect the journalists’ mission to collect and distribute information. Aggressions, threats and insults against the press are unacceptable, especially when they come from authorities or public persons.
- The representatives of the police forces must take action when a journalist (or any other citizen) is being assaulted.
- The police officers’ role is to protect, not to attack.
- Publicly condemn assaults against journalists, inform with respect to sanctions and the completion of cases, disseminate case studies in the Police Academy and in similar education institutions, when hiring of community police officers and on police station notice boards.

Recommendations for journalists:

- File complaints against aggressors and make the incidents of this kind public, try to collect evidence, witnesses and exact data.
- Notify the media organizations if you are assaulted and request their support (public reactions, discussions with the authorities, legal assistance etc).

CHAPTER 4. THE ACCESS TO INFORMATION OF PUBLIC INTEREST

The Chamber of Deputies gives accreditation to the bloggers

At the beginning of 2010, after the demand of accreditation of a journalist¹⁷³ and the open letter of a few media organizations, a process has been started for the consultation on the subject of bloggers' accreditation offered by the Chamber of Deputies. An argument brought into discussion was that the press is a dynamic domain and that the European Parliament, as well as the White House, have been providing accreditation to independent journalists/bloggers for several years now. There have been a series of amendments to the regulations, so that they also allow the accreditation of the freelancer at the Chamber of Deputies. However, the system of accreditation remains an extremely bureaucratic one, the freelancer having to present three recommendations from 3 journalists who are already members of professional media organizations or associations from Romania, prove having a professional portfolio that would include at least 6 materials published by a media institution over the previous 12 months, as of the moment of submitting the accreditation request, and a statement setting forth the deontological ethics code to which they subscribe, which they should annex in a signed copy. The new regulation was adopted in March 2010.

Making the statements of assets and interests secret

In April, the Constitutional Court (CCR) went beyond its duties, analyzing, *ex officio* (i.e., without being notified, as required by law) certain articles for the operation of the National Agency for Integrity. In this context, the Court stated that it was unconstitutional to publish the dignitaries' statements of assets and interests¹⁷⁴ on the Internet, as imposed by the National Agency for Integrity (NIA). The decision, later published in the Official Gazette, invoked the fact that Internet exposure of the personal financial statements violates the public officials' right to a private life. The CCR claimed that "the exposure that is not objectively and reasonably justified, on an Internet page, of data on the

persons' assets and liabilities" was unconstitutional¹⁷⁵.

At the notification of journalists and media organizations, who classified the decision as being "an abdication from the principles of transparency and accountability pertaining to the statute of dignitaries and public servants"¹⁷⁶, President Traian Basescu steered the law back to the Parliament (see details in the Legislation chapter of this report).

Journalists from Mureş opposed the limitation of access to public documents

In July, the Mureş branch of the Romanian Federation of Journalists - MediaSind protested against the limitation, by the City Council, of the press' access to documents of public interest. "The Mureş branch of the Romanian Federation of Journalists - MediaSind takes note, with a certain concern, of the intention of the Târgu Mureş Mayor's Office Executive [editor's note: the Local Council] to limit access to public information. To that effect, it supports the journalists' action, who wish to accurately inform public opinion on the basis of documents and not by the folklore method (from mouth to mouth), as Mayor Dorin Florea probably wants. We, as journalists working in Târgu Mureş, took note, with a certain concern, of the statements of the city's Mayor, Dorin Florea, with respect to the possibility that the press might no longer have access to the materials subject to debate by the Municipal Local Council, under the childish grounds of saving paper"¹⁷⁷, a statement of MediaSind Mures shows. The journalists criticized the initiative of the Mureş Mayor Dorin Florea, who had offered "to be the one who verbally explains the content of such documents, as often as he should be asked to do so"¹⁷⁸.

The access of the media, banned at the Government

On August 25, the Government banned the media's access to a discussion on taxation of copyright, even though the journalists had been initially told that they could participate¹⁷⁹.

¹⁷³ In August 2009, independent journalist Emilia Şercan requested the Chamber of Deputies her accreditation as a freelance journalist, during a period of documenting for a movie-inquest related to the parliament members' wealth. The Chamber of Deputies responded that "the operation regulation does not provide for the freelance journalists' accreditation". See "FreeEx Report for 2009. PressFreedom in Romania", ActiveWatch - Media Monitoring Agency, May 2010.

¹⁷⁴ "Rabbits in the Headlights. Information", Liviu Avram, Adevărul.ro, May 6, 2010.

¹⁷⁵ "CCR: The obligation to publish the statements of assets and liabilities violates the right to private life", NewsIn, Realitatea.net, April 22, 2010.

¹⁷⁶ "Letter to the President: Do NOT promulgate the ANI law", Convention of the Media Organizations, ActiveWatch.ro, May 13, 2010.

¹⁷⁷ "Journalists protest against the refusal of the Târgu Mureş Mayor's office to provide them with public documents", BistritaOnline.ro, July 8, 2010.

¹⁷⁸ Ibidem.

¹⁷⁹ "The Government invites journalists to Boc's discussion with the copyright holders, and then prohibits the access of the press", Mediafax.ro, August 25, 2010.

Report upon the transparency of the Bucharest institutions

In December, ActiveWatch published a “Report for the monitoring of the local public administration in the process of urban development”. Among other things, the analysis showed that during the 10 months of monitoring, the problems identified in the administration of the public domain were: total lack of decision-making transparency and public communication of the Bucharest 5th District’s Mayor’s office; the practice of conducting the meetings of the local council in extraordinary sessions in the 2nd District (the meetings are announced with a very short prior notice or with no prior notice whatsoever); lack of activity reports of specialized committees; lack of information on the contact data of local advisors and of the coordinates, for the purpose of requesting public hearings¹⁸⁰. Thus, according to the report, with the exception of 6th District Mayor’s office, none of the other institutions subject to monitoring had any contact data of the local advisors published on the institution’s website (e-mail, telephone, fax).¹⁸¹

SAR vs AVAS & EXIMBANK

In 2010, the Romanian Academic Society (SAR) won the lawsuits filed against EXIMBANK and AVAS for the purpose of coercing the two companies to render two public interest contracts transparent. The contracts in discussion are a contract for the procurement of advertising and promotional services, which EXIMBANK had kept confidential, invoking the bank secrecy law, and the privatization contract concluded between AVAS and Ford¹⁸².

Journalist Dan Tomozei published a book about the access to public information

In 2010, Sibiu journalist Dan Tomozei published a book¹⁸³ about the obstacles he had encountered from the local authorities as a result of data requests regarding the use of public money, under law 544/2001 on free access to public interest information. “<<The Illusion of Democracy>> is a call to courage, realism and, why not, a call to revolt against those who rely on general indifference in order to transform the administration into a personal and group business”¹⁸⁴, according to the author, a journalist for over 18 years. The book shows the

¹⁸⁰ “Report for the monitoring of the local public administration in the process of urban development”, ActiveWatch.ro, OrasulEstiTu.ro, December 15, 2010, page 4 (available only in Romanian).

¹⁸¹ Ibidem, page 5.

¹⁸² “We have won again in court with EXIMBANK and AVAS”, Romanian Academic Society, SAR.org.ro, 2010.

¹⁸³ “The illusion of democracy. Obstacles in the way of access to public information”, Publishing house of the “Lucian Blaga” University, Sibiu, 2010.

¹⁸⁴ Ibidem, page 6.

manner in which the Sibiu authorities related to information of public interest (public procurements, tenders, trips taken on public money, etc.), trying to conceal them or to delay their disclosure for as long as possible. Because many of his requests for information were ignored or treated lightly, the journalist sued several representatives of public institutions. “Pursuant to the truth finding processes, I have also added evidence that Romanian democracy is original in the courts as well. And, finally, that even though you may be right, according to a document with a presidential Seal, local authorities do not lay great store on Justice”¹⁸⁵, the author also said.

“The Sibiu Mayor’s offices are, with few exceptions, unwilling to communicate. Some of them are not prepared to adopt a serious position even after being summoned, which would lead to a permanent and strenuous dialogue in court. Practice shows that the attitude towards the public request is less than responsible, and where there is a minimum interest, energies are channeled towards procrastination”¹⁸⁶, Dan Tomozei noted. “The procrastination of the response appears be the watchword of the local public administration. For such a circumstance, the representatives of the authority seem to know the law perfectly, speculating any possibility to postpone the answer to the dot”¹⁸⁷, the journalist added. Over eight case studies, in which he requested information from Sibiu Mayor’s offices (Avrig, Cristian, Mediaş, Micăsasa, Răşinari, Roşia, Slimnic, Tălmăciu), the journalist proved that only “50% of the mayor’s offices consider the law an obligation”¹⁸⁸ and comply with the access to public interest information.

Conclusions:

- Authorities procrastinate or ignore the obligation to provide public interest information and sometimes even hinder (bureaucratically) the access to such information.
- Although the legal deadline for providing information of public interest verbally requested by journalists is 24 hours, the authorities invoke various bureaucratic obstacles. Sometimes, the answers come within as long as 30 days following the registration of the requests (the maximum legally admitted period).
- Bloggers and freelance journalists are treated with reluctance by the authorities.
- Companies carrying out business activities involving public money are reluctant to rendering such transactions transparent.

¹⁸⁵ Ibidem.

¹⁸⁶ Ibidem, page 34.

¹⁸⁷ Ibidem, page 35.

¹⁸⁸ Ibidem, page 36.

Recommendations for journalists and editors:

- Read and use the Law on access to public interest information¹⁸⁹.
- Request a registration number for each application for public interest information.
- According to Law 544 / 2001 on free access to public interest information, authorities have an obligation to inform you in writing on delayed responses, if they should exceed 10 days following the registration of the application.
- If the authorities fail to respond within 30 days following the registration of the request for information, address the court of law. Complaints on this issue are examined in a regime of emergency and are exempt from the stamp fee.

Recommendations for the authorities:

- Law 544 / 2001 on free access to information of public interest is binding, not facultative.
- Support the mission of the press to inform and do not obstruct the citizens' access to public information.
- Independent media, publishing relevant and verifiable articles, can only exist based on access to an infrastructure of resources and public information.
- Also ensure free online access to information of public interest.
- In order to avoid a fine of 20% of the minimum gross wage per economy for each day of delay in providing information, comply with the legal term provided for under Law 544/2001.

CHAPTER 5: INSULT, LIBEL, THE RIGHT TO PRIVATE LIFE

Mircea Badea vs the CNA

At the beginning of the year, the Supreme Court of Justice decided to reduce a fine imposed by the National Council of Audiovisual (CNA) on the Antena3 TV channel in 2009, for one of the “In gura presei” shows, hosted by Mircea Badea¹⁹⁰. On March 3, 2009, the CNA had fined the Antena 3 television channel Lei 100,000, because Mircea Badea, host of the “In gura presei” show, had instigated violence against the alleged murderers of handball player Marian Cozma, who had been killed in Hungary. “I hope that that commando, for lack of a better word, sent to Montenegro to finish off the gypsies, to actually finish them off, man! I mean, they shouldn't travel such a long way for nothing, but actually catch the guys and finish them off!”¹⁹¹, said Mircea Badea, on live TV.

The court decided to reduce the fine from Lei 100,000 to Lei 10,000. Thus, “the court admitted the radio broadcaster's action in part, in the sense of reducing the amount of the fine to Lei 10,000, and dismissed the rest of the action”¹⁹². According to CNA's Activity Report for 2010, “Out of the 388 sanctioning decision imposed in 1020, 40 were appealed in court; 28 case files have been have been solved so far, 27 of which in favor of the CNA and one in which the radio-broadcaster's action was admitted.”¹⁹³

Bună Ziua Iași loses lawsuits

On March 30, the Iasi local councilor Sorin Ionescu won the lawsuit filed against the journalists of Bună Ziua Iași (BZI), a newspaper which had been sued by the National Anticorruption Directorate - DNA - for blackmail) and of the Delta Press media corporation, for publishing defamatory articles about himself, his family and his company¹⁹⁴. The court ordered the journalists to pay moral compensation in the amount of Lei 10,000.

In June, the BZI newspaper lost another libel lawsuit, filed by businessman Dănuț Prisecariu. Three journalists of the publication (Tudor Leahu, Constantin Mazilu, Ioana Gavriluță) were ordered by the court to pay moral compensation in the amount of 1 Leu, to publish, at their own cost, the irrevocable

¹⁹⁰ “Ioan Onisei: Antena3 only won 1 out of 9 lawsuits against the CNA”, Carmen Maria Andronache, PaginaDeMedia.ro, March 10, 2011.

¹⁹¹ “FreeEx Report for 2009, Freedom of the press in Romania”, ActiveWatch - Media Monitoring Agency, May 2010.

¹⁹² “CNA. Activity report for 2010.”, CNA.ro, page 83.

¹⁹³ “CNA. Activity report for 2010.”, CNA.ro, page 9.

¹⁹⁴ “He won the lawsuit”, Telem.ro, March 30, 2010.

¹⁸⁹ “Legal guide for journalists”, 3rd edition, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, 2009 (available only in Romanian).

court decision in the BZI, as well as in three other local daily newspapers and to pay court expenses of Lei 20.000¹⁹⁵.

Sorin Roșca Stănescu vs Ringier

On May 6, the Convention of the Media Organizations (COM) drew up a protest against the disproportionate decision of the 2nd District Court of Law¹⁹⁶, which ordered Ringier to publish in *Evenimentul Zilei*, *Adevărul*, *România Liberă* and *Libertatea* the 9-page court decision that acknowledged Sorin Roșca Stănescu as the winner in the lawsuit filed against Ringier. In 2005, Sorin Roșca Stănescu complained that the *Evenimentul Zilei* newspaper, edited at the time by SC Ringier România SA, published two defamatory articles about him.

The Media Organizations' Convention considered that, according to the practice of the European Court of Human Rights, "the publication of all 9 pages in a publicity regime was a disproportionate sanction against the freedom of speech and has a major inhibiting effect both on the editor and on the journalist who wrote the incriminated article. [...] We believe that, in this case, the sanction may cause this discouraging effect, by being so disproportionate, therefore the publication of the decision's enacting terms would be sufficient and would satisfy the requirements of ECHR and of the judicial practice in the matter of article 10 on freedom of speech", a COM press release shows.

Iona T. Morar vs Mihai Tatulici

On July 5, journalist Ioan T. Morar definitively and irrevocably won the lawsuit filed by journalist Mihai Tatulici against him in 2005. The case file was dismissed as ungrounded. "Some time ago, on December 22, 2005, I wrote the article <<A ten for Cântarea României>> in which I expressed my opinion on Mihai Tatulici's reflexes of a member of the Romanian Young Communists League"¹⁹⁷, journalist Ioan T. Morar recounted on his blog, after finding the irrevocable court decision.

Mayor Hogeia vs journalist Cristian Dogaru

In July, Tulcea Mayor Constantin Hogeia lost the lawsuit filed in 2009 against journalist Cristian Dogaru, of the *Acum* newspaper, on the grounds that the latter had violated the

¹⁹⁵ "3 <<journalists>> of BZI and <<the newspaper>> must pay Lei 20,000 to Danut Prisecariu and apologize to him in 3 newspapers", *lasicastiga.ro*, June 16, 2010.

¹⁹⁶ The lawsuit is in the stage of enforcement of the obligation to publish the court decision.

¹⁹⁷ "I won the lawsuit with Mihai Tatulici. Definitively!", Ioan T. Morar, *Morar.Catavencu.ro*, July 5, 2010.

former's right to honor and reputation¹⁹⁸. The titles of the articles against the Mayor's complaint was directed were: "Hogeia Imobiliare SA", "Hogeia - a second hand mayor", "Hogeia is preparing alms consisting in a public land for businessman Ciubuc", "Hogeia - a new species of boor".

Varujan Vosganian vs Jurnalul Național

On July 8, politician Varujan Vosganian (PNL) lost the lawsuit against *Jurnalul Național*, in which he requested compensation in the amount of EUR 300,000, for an article written by Marius Tucă¹⁹⁹. The article quoted a statement inferring that Vosganian had collaborated with the former communist Secret Police, even though National Council for Studying the Archives of the Communist Secret Police (CNSAS) disclaimed this information.

Mălin Bot vs Stelică Mălăieșteanu

On November 11, the High Court of Cassation and Justice ruled in favor of journalist Mălin Bot of *Evenimentul Zilei* Timișoara, who had been sued by Timișoara businessman Stelica Malaiesteanu in 2006. The businessman had requested compensation in the amount of Lei 500,000, invoking the fact that a series of articles written by the journalist had been detrimental to his image. The court dismissed the action. The court expenses of plaintiff Mălăieșteanu were of approximately Lei 50,000²⁰⁰. "Mălăieșteanu refused to pay the court expenses ordered by the Court of Appeals. The enforcement costs began to increase the total amount and the court expenses, plus enforcement expenses, finally reached over Lei 11,500. On November 21, 2010, court executor Cristian Crăciun made one villa of the businessman the object of an auction, at which time the businessman paid the Lei 11,500 in order to avoid the sale of the house"²⁰¹, stated journalist Mălin Bot.

Journalist George Lăcătuș won the lawsuit filed by National Agency of Integrity (ANI)

In November, the court ruled in favor of journalist George Lăcătuș, sued for denigration by the National Agency for Integrity (ANI), on the grounds of having made "undocumented and tendentious claims" against the institution, in an article. The text, called "Dubious auction: ANI pays EUR 3 million for archiving the statements for

¹⁹⁸ "Freedom of speech does not agree with Mayor Hogeia", *Suzan Mehmet, ObiectivTulcea.ro*, July 6, 2010.

¹⁹⁹ "Vosganian lost the lawsuit against *Jurnalul Național*, which had accused him collaborating with the Secret Police", *Mediafax.ro*, July 9, 2010.

²⁰⁰ "How I won a Lei 5-billion lawsuit", Mălin Bot, *MalinBot.wordpress.com*, November 14, 2010.

²⁰¹ *Ibidem*.

assets and interests”²⁰² and published in the România Liberă of January, documented the fact that ANI had purchased electronic archiving services in the amount of EUR 3 million from a firm initially considered ineligible to participate in the auction. The 3rd District Court of Law dismissed the application filed by ANI, considering it ungrounded. The court’s motivation shows that “upon reviewing the contents of the article published by the defendant, the court finds that it is not of an aggressive nature, but that it is quite balanced, containing information combined with personal deductions of the author, without, however, exceeding reasonable limits. Furthermore, the court finds that the defendant justified the terms he had used by a logical undertaking”²⁰³ and that “given the fact that the defendant showed good faith in drawing up and publishing said article, he took sufficient steps towards a correct information, twice requesting information from the plaintiff, as well as the fact that all personal deductions of the defendant are based upon a logical argumentation and upon factual elements, the court considers that his use of words such as <<dubious>> and <<evasive>> does not go beyond the limits of the press’ freedom of speech, regulated by article 10 of ECHR”. In its concluding statement, the court finds that coercing the defendant, according to the action’s summaries, would represent an interference in his freedom of speech, which interference is not necessary in a democratic society, as it does not correspond to an imperative social need, in the sense of the European Convention for Human Rights. Also, for all of the aforementioned considerations, the court notes that, by publishing the mentioned article, the defendant did not commit an illicit act, therefore his liability in tort cannot be entailed, thus the request filed by the plaintiff is to be dismissed, as ungrounded”²⁰⁴.

Elena Udrea vs Olguța Vasilescu

On November 30, Elena Udrea, Minister for Tourism and Development, lost the libel lawsuit filed against PSD senator Olguța Vasilescu, in which she had requested civil compensation for moral prejudice in the amount of Lei 100,000²⁰⁵. Olguța Vasilescu had stated that the mayor of Craiova, Antonie Solomon, was taken to the DNA for having withdrawn the companies of Elena Udrea from the market. After losing the lawsuit, the Minister of Development wrote on her blog that “some judges do not care about concepts such as honor, dignity and image”²⁰⁶.

²⁰² “Dubious auction: ANI pays EUR 3 million for archiving personal financial statements”, George Lăcătuș, RomaniaLibera.ro, January 12, 2010.

²⁰³ Civil court decision no. 12469, issued by the Bucharest 3rd District Court of Law, November 2, 2010.

²⁰⁴ Ibidem.

²⁰⁵ “Elena Udrea lost the lawsuit with Olguța Vasilescu”, Marinela Rață, Evz.ro, November 30, 2010.

²⁰⁶ “The absence of justice”, Elena Udrea, ElenaUdrea.ro, November 30,

Decision not to commence criminal prosecution against journalist Viorel Ilișoi

In December, the Prosecutor’s Office affiliated with the 1st District Court of Law communicated to journalist Viorel Ilișoi of Jurnalul Național, its decision not to commence criminal prosecution against him. In 2008, Viorel Ilișoi had written a feature report in the Cotidianul newspaper (where he worked at the time) on the hackers of Drăgășani, which article was taken over by the foreign press. In this context, the newsroom of Courier International illustrated the translation of Viorel Ilișoi’s article with images taken by photographer Petruț Călinescu, but changed the caption of a photograph. “The caption of the photograph [...] was given by Courier International. Petruț Călinescu sold the photograph with the text <<Street scene in Drăgășani>> and the CI newsroom replaced it with something else”²⁰⁷, said journalist Viorel Ilișoi. Thus, under one of the photographs, the French journalists wrote: “La voiture de luxe, signe distinctif du cyberescroc” (the luxury car, distinctive sign of a cyber-crook). As it happened, the car in the photograph belonged to Iulian Mihai Roșculete, Attorney-at-Law, who filed a complaint on the grounds that his image had been affected. “I called Mr. Roșculete to tell him that I was not the author of the photograph. The complaint strictly referred to that photograph, which showed his car, and the generic explanation given by the French. The name Roșculete did not appear in my text. However, Mr. Iulian Mihai Rosculete filed a complaint both against me and against the Cotidianul newspaper, for the photograph printed in Courier International”²⁰⁸, said journalist Viorel Ilișoi.

Iulia Sâmbotin vs Iosif Gligor & SBS Broadcasting Media

In November 2009, the Civil Section of the Alba Tribunal convicted journalist Iosif Serafim Gligor and SBS Broadcasting Media (the owner of Prima TV) to the payment of Lei 100,000 (approximately EUR 25,000) and, respectively, Lei 300,000 (approximately EUR 75,000) for infringing upon the image and the reputation of 3 people.²⁰⁹ In 2007, Iosif Gligor had sent the Click and Informația de Alba newspapers articles regarding a female employee of a branch of the Romanian Commercial Bank (BRC) Alba Iulia, which had taken photographs of herself scantily clad, in her office. The photographs had been posted on the bank’s internal server by a friend of Iulia Sambotin, the protagonist of the photos. The server could be accessed by all of the bank’s employees. Subsequently, the photos circulated on the net, especially among her 2010.

²⁰⁷ “I dodged prison again!”, Viorel Ilișoi, blog.ActiveWatch.ro, December 31, 2010.

²⁰⁸ Ibidem.

²⁰⁹ Civil sentence No. 1688/2009.

acquaintances. Half a year later, the photographs were also brought to the attention of journalist Iosif Gligor, who wrote an article titled “Iulia Sâmbotin posed naked”. In *Informatia de Alba*, the article appeared with the title “Daughter-in-law of former BCR manager took pictures of herself naked on a desk of the bank where she was working”. Click published articles titled: “Officer suited for being a porn star”, “Sexy advisor, questioned by the police”. Prima TV (Iosif Gligor is a correspondent of this TV station) broadcast a piece of news on this subject, and was sanctioned by the National Audiovisual Council with a Lei 5,000 fine for violating the right to private life, for disseminating pornographic imaged and for infringing upon child protection.

In December 2010, the Alba Iulia Court of Appeals repealed Alba Tribunal’s decision in full and ordered the plaintiffs (Iulia Sâmbotin, Liviu Dan Sâmbotin, her husband, and Liviu Sâmbotin, her father-in-law) to pay the court expenses of defendant Iosif Gligor²¹⁰. The court found that Iosif Gligor acted in good faith and that the articles sent to the two publications had been of an informative nature and contained no personal opinions and appraisals. Those had been added by the editors. The court added that such opinions are also under the protection of article 10 of the European Convention for Human Rights. The Court also found that the photographs were already in the public space prior to their publication by Iosif Gligor and Prima TV, and the plaintiff had done nothing to stop their deletion from the bank’s servers. Moreover, she did not consider that they could hurt her family in any way. The Court also found that the journalist’s undertaking “was a legitimate one, since, as noted, it sought to inform public opinion”. The recounted facts were in accordance with the truth “and in this specific case no evidence has been brought of any personal animosity between the journalist and the plaintiffs or of his intention to unjustifiably hurt the plaintiffs’ reputation”²¹¹. With respect to the broadcast in the PrimaTV news, the Court also said that this defendant behaved in good faith and that the story regarding plaintiff Sâmbotin represents a piece of news that interests the public (...)”²¹².

²¹⁰ Civil decision No. 196/A/2010.

²¹¹ Ibidem.

²¹² Ibidem.

Conclusions

- Romanian courts have begun to comply with the ECHR jurisprudence and to be more careful when imposing punishment on journalists or on people accused of insult, libel or denigration.

Recommendations for journalists:

- File complaints with ECHR when you are convicted to payment of disproportionate amounts or are served exaggerated punishment for damaging the reputation of a person or for infringing upon the right to private life.
- Be informed with respect to the ECHR jurisprudence and use it as an argument in court, when you are being sued²¹³.
- When you are involved in a lawsuit, request the payment of court expenses.

Recommendations for authorities, politicians and other citizens:

- Respect the right to freedom of speech.
- Public persons should avoid suing journalists when they have other means of counteracting disparaging information about them (public speeches, press conferences etc.).

²¹³ “Guide of the employee’s rights for journalists - 2nd edition”, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, 2009 (available only in Romanian).

CHAPTER 6: LABOUR CONFLICTS

Year 2010 was a tense year for journalists, with delays in the payment of wages, restructuring, sneering and pressures from employers, which were difficult to tolerate. But many journalists resisted the pressures and defended their rights, in many cases successfully.

The Collective Labour Agreement at the level of Mass Media Industry was extended without amendments, for 2 additional years²¹⁴.

Cezar Ion, reappointed as the manager of TVR

Two years after suing the public tv channel (TVR) for abusive dismissal, journalist Cezar Ion won the trial against the institution and decided to solve the problem amiably. "I signed a settlement contract with the television, whereby TVR agreed to revoke the second layoff decision of last year and pay my wages for the entire period of my redundancy, namely August 2008 - June 1, 2010"²¹⁵, declared the journalist, who resumed his activity as manager of the Editorial Production Department.

Alina Mirea vs. Adevărul Holding

In early June, journalist Alina Mirea won the lawsuit in which she had challenged Adevărul Holding's decision to fire her. In September 2009, journalist Alina Mirea, editor-in-chief of Adevărul de Seară din Craiova, a member of the Professional Journalists Trade Union, requested the support of the organization after being fired by the holding owned by Dinu Patriciu and managed by Răzvan Cornețeanu, while being on sick leave and hospitalized for a surgical procedure²¹⁶. According to a press release of FRJ MediaSind, "the court decided to return the parties to their situation prior to the layoff and ordered SC Adevărul Holding SRL to pay to the claimant compensation equal to her indexed, increased and re-updated wages and the other rights from which she would have benefited starting from the date of the layoff and until her definitive reintegration. SC Adevărul Holding SRL was also ordered to pay court expenses"²¹⁷. SC Adevărul Holding SRL filed a second appeal with the Craiova Court of Appeals²¹⁸, but the journalist won this lawsuit as well.

²¹⁴ The wording of the Contract and the addenda can be found on the MediaSind.ro website, under the "Journalists' Rights" section (available only in Romanian).

²¹⁵ "Cezar Ion resumes his activity as manager of TVR's Editorial Production Department", Mediafax.ro, May 26, 2010.

²¹⁶ "FreeEx Report for 2009, Freedom of the Press in Romania", ActiveWatch - Media Monitoring Agency, May 2010.

²¹⁷ "SC Adevărul Holding SRL starts losing lawsuits with journalists", MediaSind.ro, October 11, 2010.

²¹⁸ "Alina Mirea vs Adevărul", MediaSind.ro, October 11, 2010.

Roxana Negoescu vs. Adevărul de Seară

On June 14, journalist Roxana Negoescu, employee of the Târgoviște edition of the "Adevărul de Seară" publication, found out, from the very pages of the newspaper, that she had been fired. The decision was published in an article with the title "Reporter fired for conflict of interests", signed by editor-in-chief Sabin Orcan. The reason for this layoff: the journalist had written about the violation of the rules regarding the allocation of the ANL homes, being the beneficiary of such a home herself, and had even quoted her own husband in the article. "I presented the subject, without the intention of writing it, but the editor told me to deal with it because I know better what it is about. I explained to him that I, too, was involved, but he insisted that I should write it. I documented upon the subject, while the Aninoasa mayor, Constantin Maricescu, threatened me that there were many people who know about it and that I was going to get into trouble, after which he tried to <<bury the hatchet>>. Finally, I wrote it and gave it to the editor. It was published without any problems, after which I have just found out that I was fired. I did not receive any decision in this respect, which is why I do not know how to react. However, I think that before publishing the article about me, they should have made an investigation and asked me about this situation. I did nothing without the consent of my superiors, they should have stopped the article from being published or assigned someone else to cover the ANL case, had they considered that there was a conflict of interests"²¹⁹ said the journalist. The Romanian Federation of Journalists - MediaSind, to which the journalist is affiliated, has sent a notification to the management of Adevărul, in view of appealing the dismissal in the Court of Law, as "The bosses said that she had violated the deontological code when she wrote about a story in which she was involved, even though she had nothing to gain from it, because she had a home. No, she was not sanctioned with a decrease of her salary, as the law provides, but she was fired"²²⁰.

Rodica Culcer, head of TVR news again

In early July, Rodica Culcer became again the head of TVR news, following the decision of the new president- general manager of SRTv, Alexandru Lăzescu²²¹. In 2007, TVR's former Board of Directors had restructured the journalist's position, invoking "the exaggerated consumption of resources, correlated with a decrease of the audiences and of the editorial quality of the programs"²²². However, Rodica Culcer

²¹⁹ "Adevărul de Seară fires its reporters by means of newspaper articles", Tiberiu Lovin, ReporterVirtual.ro, June 15, 2010.

²²⁰ "Roxana Negoescu vs Adevărul", MediaSind.ro, October 11, 2010.

²²¹ "Rodica Culcer: Since this morning, I returned to the management of the TVR News", C.M., HotNews.ro, July 1, 2010.

²²² "TVR: Rodica Culcer shall not return to the News Department",

claimed that the decision was a “political punishment”, because it occurred after the journalist decided to publish a piece of news accusing the 2007 minister of Agriculture, Decebal Traian Remeș, of corruption acts. At that time, the journalist appealed the restructuring of her position in court, but lost the trial twice, both in the court of first instance and at the second appeal.

Tiberiu Lovin & Magdalena Tănăsescu vs. România Liberă

Tiberiu Lovin won, in July, the trial filed against the Romania Liberă publication in 2009, for having been abusively fired. The journalist had been fired for refusing the conversion of the payments from his employment record book to copyright²²³. The decision of the court ordered the publication to “pay the claimant compensation equal to the indexed, increased and re-updated wages, as well as the other rights from which the employee would have benefited under his individual employment contract, starting from the date of his dismissal and until the date of his actual reintegration”²²⁴.

In December, journalist Magdalena Tănăsescu, also fired for refusing to replace her employment record book with the contract for copyright, won the lawsuit filed against the newspaper Romania Liberă. The court ordered the employer to reintegrate her and to pay her salaries for the period during which she was abusively fired²²⁵.

TVR vs. Cosmina Pășarin (contractual conflict)

On July 8, TVR ended its collaboration with the TV star Cosmina Pășarin, who hosted the show “Intâlnire DP2” for the reason that she had “displayed a totally inappropriate and morally unbecoming behavior”²²⁶ in a night club, according to a TVR press release. Everything started from a dance of the star, who, at night, was master of ceremonies in a club. The management of the public television deemed said dance to be incompatible with her statute as TVR collaborator. “I’m surprised they didn’t burn me at the stake”²²⁷ said Cosmina, who learned of TVR’s decision of TVR from the press. The TV star mentioned that TVR had not provided for any such

RomaniaLibera.ro, February 26, 2009.

²²³ “Romania Liberă, sued by part of the fired employees”, 9am.ro, April 27, 2009.

²²⁴ “Tiberiu Lovin joins the list of journalists who beat Romania Libera in court”, Ziaronline.wordpress.com, July 10, 2010.

²²⁵ “Another fired journalist won the lawsuit against România Liberă”, Tiberiu Lovin, ReporterVirtual.ro, December 22, 2010.

²²⁶ “TVR let Cosmina Pășarin go because of her <<immoral behavior>>”, Realitatea.net, July 8, 2010.

²²⁷ “Cosmina Pășarin: I’m surprised they didn’t burn me at the stake”, Ioana Nechifor, ZiarulRing.ro, July 13, 2010.

prohibition in the collaboration contract that they had signed.

Florentin Deac vs. Cuvântul Liber

Also in July, journalist Florentin Deac, an employee of 13 years of the Cuvântul Liber newspaper of Târgu Mureș, was fired. The journalist appealed the decision in court and requested that he should also be granted some rights that he had not benefited from. “I am confident that I will win, because the facts are clear: I was not paid the correct wages corresponding to my higher education qualification, therefore I should be able to recover the differences in wages for three years. The employer did not even pay me the 3 salaries to which I was entitled, when I left, he did not pay me the 25% loyalty fee, even though I was forced to sign a draconic deed by which I undertook not to hire colleagues at a company having the same object of activity and I was prohibited from comparing the prices of newspapers! The employer did not pay for my work seniority either, but only 5% of the same, and then, by means of an artifice, it was included in my salary, in order for the following installments to stop being paid”, Florentin Deac said.

“Let’s be very clear. He was fired on financial grounds. All of our opinions are in the file. Let justice do its job. The reasons are purely financial in nature. I shall not discuss it any further”²²⁸, Lazăr Ladariu, editor-in-chief of the publication, declared for FreeEx. In March 2011, the court ordered Cuvântul Liber to give journalist Florentin Deac the payment related to his higher education, for 3 years. The journalist filed a second appeal, seeking to obtain the other rights he had required. The lawsuit is ongoing.

Wave of resignations from Telesport

In August, 90% of the Telesport employees resigned, after 5 months of not having received their salaries²²⁹. Telesport went bankrupt in the same month²³⁰.

FJR MediaSind demands respect for the employees of Realitatea

At the end of August, FRJ MediaSind requested the Realitatea Media group to cease all abuse against its employees, who had not received their salaries for months and had been forced to give up their individual employment

²²⁸ “Story of journalist Florentin Deac, who was fired after 13 years in the employment of <<Cuvântul Liber>>”, FreeEx, January 31, 2011.

²²⁹ “Mass resignations at Telesport”, Tiberiu Lovin, ReporterVirtual.ro, August 11, 2010.

²³⁰ “Telesport files for bankruptcy”, R.M., HotNews, August 5, 2010.

contracts in favor of copyright contracts²³¹. In this context, MediaSind found that Realitatea Media had violated the provisions of the Collective Labour Agreement at the level of Mass Media Industry.

Strike at The Money Channel

Several employees of The Money Channel went on strike on August 31, because they had not received their salaries for three months. Approximately one hour within the strike, the management convinced the employees to end the protest²³². As the delay in the payment of wages continued, tensions broke out again, in the following months.

Former employees vs Ziuă & Cotidianul

In September, the Bucharest National Employment Agency (NEA) ordered that former employees of the Ziuă newspaper (shut down in January 2010) should receive their outstanding wages, totaling Lei 331,289²³³.

NEA also ordered that 48 former employees of the Cotidianul newspaper (a publication which had been shut down in December 2009) should receive severance payments and arrears amounting to Lei 250,000²³⁴.

Conclusions:

- Most journalists that appeal the abusive actions of their employers in court win.
- In the context of the economic crisis, many employers have pressured their employees to replace their labour contract with the copyright contract.

Recommendations for journalists:

- Only an employment contract guarantees your rights. Become informed with respect to these contracts and do not accept clauses which are contrary to the Collective Employment Contract (CCM), because they are illegal²³⁵.
- The CCM also includes the conscience clause - one of the weapons orders against editorial orders.
- Be very cautious when signing the copyright contract, because it has been used to blackmail journalists and to circumvent the provisions of the Labor Code and of the Collective Labour Agreement at the level of Mass Media Industry.
- When you are faced with a labor dispute, contact a specialized lawyer, a journalists' trade union or a media NGO.

²³¹ "FRJ MediaSind demands Realitatea Media to treat its employees with respect", MediaSind.ro, August 31, 2010.

²³² "Strike at The Money Channel", Tiberiu Lovin, ReporterVirtual.ro, August 31, 2010.

²³³ "Employees of the late newspaper Ziuă shall receive their outstanding salaries", Tiberiu Lovin, ReporterVirtual.ro, October 6, 2010.

²³⁴ "Former employees of Cotidianul shall receive 2.5 billion old Lei", Tiberiu Lovin, ReporterVirtual.ro, September 8, 2010.

²³⁵ Guide of the employee's rights for journalists - 2nd edition, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, 2009 (available only in Romanian).

CHAPTER 7: ETHICS

After the Romanian press went through massive dismissals and budget cuts, some journalists desperately tried to build audience. To do so, they sometimes chose the simplest ways, which also lacked ethics. Here are some examples.

The dead are walking through prime-time

Mădălina Manole. The suicide of singer Mădălina Manole was enthusiastically speculated by televisions and the print press. The funeral alone, broadcasted live by four TV channels (Pro TV, Antena 1, Antena 3 and Realitatea TV), was watched by 2.5 million Romanians²³⁶. “Crowded around the grave, the televisions broadcasted all the details of the funeral, after one day during which the disappearance of Mădălina Manole was exaggeratedly reflected especially by the news channels”²³⁷, wrote Petrișor Obae.

The televisions presented in detail the manner in which the singer committed suicide, hunted the grieving family down for statements and showed pictures of the orphaned baby. For these approaches, the National Council of Audiovisual (CNA) sanctioned Antena 1, TVR1, Antena 3, Realitatea TV and Kanal D with a total of EUR 8,300.

Moreover, the editor-in-chief of the press agency Agerpres invented an interview with Mădălina Manole, taken one day before the suicide. The material written by Marina Bădulescu was a collage of quotes from Mădălina Manole’s blog, as well as older statements. After the suicide, it was taken over by all the press and re-shown by Agerpres with the title: “The last interview”²³⁸. The author of the fake interview was suspended for two months, then re-became the editor-in-chief of the National Press Agency²³⁹. At the beginning of 2011, she quit.

After two days of intense media coverage, a woman committed suicide with the same substance ingested by Mădălina Manole. “She was watching the news and then she came to me, looked into my eyes and told me: <<If this beautiful girl chose such a simple death, why don’t I try it?!>>”, the CanCan tabloid recounts that the woman allegedly said, in an article titled: “Unbelievable! She

²³⁶ “Mădăline Manole, buried on live television with 2.5 billion Romanians watching”, Petrișor Obase, PaginaDeMedia.ro, July 18, 2010.

²³⁷ Ibidem.

²³⁸ “Agerpres fell into its own trap! The fake interview with Madalina Manole was republished by the deputy general manager!”, Petrișor Obae, PaginaDeMedia.ro, July 16, 2010.

²³⁹ “REVOLTING: The author of the fake interview with Madalina Manole shall be restored to her position!”, Petrișor Obae, PaginaDeMedia.ro, July 17, 2010.

committed suicide with Furadan, like Mădălina Manole”²⁴⁰.

Adrian Păunescu, the Ceaușescu spouses. A similar exposure had the death of Adrian Păunescu and the exhumation of the Ceaușescu spouses. In the latter case, the relatives of the Ceaușescus prohibited journalists from entering the cemetery, and as a result Realitatea TV overflowed the cemetery in a helicopter and sent a guerilla reporter, who managed to pass the security filters and to report from among the crosses, 10 meters away from the coffin²⁴¹.

Suicide on the replay, gun on live TV. There were other cases where, even without a dead star, television channels competed in the macabre. On July 4, Antena 3 aired, in a loop, a mobile phone film in which a man from Slatina jumped from the sixth floor and died²⁴². On the same channel, Mircea Badea, who was awarded by the public of Realitatea TV the title of “best journalist in Romania”²⁴³, pulled a gun on live TV and said: “I think that in Romania, things will be like in Brazil, where people will be threatened with a weapon in the street to be robbed. That is why I prefer to protect myself from such unpleasant incidents”²⁴⁴.

Sergiu Băhăian. Another case has drawn CNA fines for the channels Kanal D, Antena 1, Antena 3, Național TV, ProTV, Realitatea TV, TVR 1 for describing in detail the manner in which Sergiu Băhăian allegedly killed his victims. For example, Kanal D explained that “the bodies of two victims have been cut out; a third person was found in a cesspool, and doctors are saying he was buried alive. (...) After being drugged, the victims were either buried alive, or killed with a hammer and then thrown into the Danube-Black Sea Canal”²⁴⁵.

Cristian Tabără, raped by the press

On July 27, Evenimentul Zilei released the news “Cristian Tabără, on trial for rape”, recounting that the daughter of a former girlfriend of the journalist filed a complaint for rape. The article mentioned in passing a statement of the mother: “It wasn’t a rape per se”²⁴⁶.

Over the following days, the issue exploded in the tabloids’ pages. Libertatea had a huge quote on its front

²⁴⁰ “Unbelievable! She committed suicide with Furadan, like Mădălina Manole”, CanCan.ro, July 16, 2010.

²⁴¹ “Deontology has a right to overflow”, Ionuț Codreanu, blog.ActiveWatch.ro, July 21, 2010.

²⁴² “Shocking images. Man dies after jumping from the sixth floor (VIDEO)”, Antena 3, July 4, 2010.

²⁴³ “Băsescu best politician, Mircea Badea best journalist”, Libertatea.ro, december 22, 2009.

²⁴⁴ “Mircea Badea, diehard! He always has a gun on his person, he showed it in his show”, CanCan.ro, July 27, 2010.

²⁴⁵ CNA Decision no. 200, January 26, 2010.

²⁴⁶ “Cristian Tabără, investigated for rape”, Raluca Dan, EvZ.ro, July 27, 2010.

page: “<<Yes, my finger slipped into the little girl’s vagina>>”, between Tabără’s photo and the photo of the girl in a bathing suit. The explanation was in the supertitle, written in a much smaller font - in fact, her mother claimed that Tabara admitted the rape²⁴⁷. Click published the article “TABĂRĂ, potency problems?”. Under it, another article said “20% of Romanians suffer from impotence”²⁴⁸. At the same time, the underage girl appeared in the newspapers and on television, in a bathing suit, even if her face was blurred.

On February 15, 2011, the prosecutor gave his verdict: Cristian Tabără is innocent. The information was knocked off with one piece of news, and then abandoned the next day. In Evenimentul Zilei, the article about his innocence had 1,922 views, while the article about his accusation had 23,684 views²⁴⁹.

Journalists do not want to be mistaken for Roma

In September, the Democratic Liberal Party (PDL) deputy Silviu Prigoană proposed changing the name of the Roma into “Gypsies”, arguing that foreigners might mistake them for Romanians²⁵⁰. On this occasion, the daily newspaper Jurnalul Național resumed its campaign “Gypsy instead of Roma”²⁵¹, started in 2009. Justification: “The re-emergence of crimes committed by Gypsies in Italy, and not only there, as well as the association of these deeds with the Romanian people presented as a nation of rapists, thieves, has negative effects not only on our country as an image, but also on good-faith Romanians who go abroad to earn an honest penny”²⁵².

In this context, one continued to assign ethnic significance to crimes, such as in the news: “Last night in a hospital in Craiova: 30 Roma assaulted two nurses and a doctor and took the patient home, together with the bed” or “PHOTO: Fight with crowbars and swords in Rahova”²⁵³ - which emphasized in its intro that “Two Roma men fought with crowbars, knives and stones in the Rahova district, according to Bucharest Police”.

²⁴⁷ “<<Alexandra does not lie! Cristi, why don’t you admit what you did to her?>>”, Libertatea, July 29, 2010.

²⁴⁸ “SERIOUS DRIFT: Libertatea sells out Cristian Tabără with an alleged quote on its front page, in which he admits his guilt!”, Petrișor Obae, PaginadeMedia.ro, July 29, 2010.

²⁴⁹ “Prosecutors’ verdict: NUP for Cristian Tabără”, Raluca Dan, EvZ.ro, February 15, 2011.

²⁵⁰ “Roma or Gypsy?”, Victor Tursan, RomaniaLibera.ro, November 18, 2010.

²⁵¹ “Gypsy instead of Roma”, Jurnalul Național, Jurnalul.ro, April 20, 2010.

²⁵² “Jurnalul National proposal: <<Gypsy>> instead of <<Roma>>”, Gabriela Antoniu, March 2, 2009.

²⁵³ “Fight with crowbars and swords in Rahova”, Simona Soare, Adevărul.ro, September 9, 2010.

Racist comments are not moderated. For example, in the Adevărul piece of news, one accepted the comment “Stinky crows! Have them go to work or put them against the wall! These are the only options left. I prefer the wall, since they are no good for any kind of work. We could still try to force them dig a few tunnels through the Carpathians, so that the highways do not cost us so much!”²⁵⁴ and others like it.

Cațavencu and xenophobia

In June 2010 the CNA fined Realitatea TV for broadcasting an advertisement for Academia Cațavencu²⁵⁵. On the screen there appeared historical representations with battles and medieval cities in flames, interspersed with images of today - Marko Bela in Cotroceni and Kelemen Hunor (Hungarian politicians) while taking the oath for becoming the Minister of Culture. The following message was exhibited over the images:

“In the ninth century, the Hungarians invaded Europe through the Ural Mountains. Organizing the hordes and using a battle tactics specific to steppe peoples, these invaders managed to terrify the contemporaries and to conquer them many times. The last victory dates back to the terrible year 2010 when the Hungarians managed to dominate a lazy South-Eastern European nation, which gave them the Ministry of Culture without a fight. Culture under Hungarian occupation. Read on Wednesday in Academia Cațavencu”.

The CNA said that “the spot tendentiously induces a negative message about the Hungarian minority and its representatives, who appear to be <<invaders>>, and who, as the ad appears to suggest, have no access to management positions in the Romanian state, until they manage to dominate a <<lazy nation>>, meaning the Romanian people”.

Conclusions:

- Televisions have speculated the deaths of famous people and turned them into a media show. Their families have been almost harassed and lured into a game of morbid statements.
- The media continues to assign ethnic significance to crimes and to accept extremely violent and racist comments from certain readers.
- Financial difficulties have created a climate of instability and compromise in the press.

²⁵⁴ Ibidem.

²⁵⁵ CNA Decision no. 620 of June 24, 2010.

Recommendations for journalists and editors:

- Treat subjects related to minorities in an equidistant and responsible manner. Do not attribute singular incidents to minorities.
- Moderate racist Internet comments and comments that incite to hatred.
- Publicly sanction ethical drifts.
- Respect the separation of powers in the state -do not act as judges and do not exert pressures upon the courts in order to make a particular decision.
- Inform the public about relevant and verifiable facts.
- Debate, adopt and make public an ethical code of your newsroom.

CHAPTER 8. LEGISLATION**The Penal and Civil Codes**

In August 2010, the Attorney General of Romania filed a second appeal in the interest of the law, whereby it requested the High Court of Cassation and Justice to ascertain the uneven nature of the jurisprudence and to pass a mandatory verdict regarding articles 205, 206, 207 from the Penal Code (which concern the offenses of insult and libel) that would ensure an even implementation of the law in this matter. The second appeal raises the issue of an uneven interpretation, at the level of the courts of law, of the Constitutional Court's decision²⁵⁶ of January 2007, which had proclaimed the Romanian Parliament's decriminalization in 2006 of the insult and libel offenses non-constitutional. Therefore, some courts of law considered that the Constitutional Court's decision resulted in the re-incrimination of these offenses while other courts of law considered that the Constitutional Court's decision did not imply that the two offences would become criminal offenses once again.

The Attorney General's appeal was in favor of the second legal opinion.²⁵⁷ The second appeal was admitted in October by decision no. 8/2010 of the High Court of Cassation and Justice - United Sections, which established that articles 205, 206, 207 from the Penal Code were not in force.²⁵⁸

After almost 4 years this second appeal clarifies a situation of legislative uncertainty. In consequence, we can say that the HCCJ's decision confirms the fact that any criminal sanction (criminal or administrative fine) for issues such as insult and libel, ordered by judiciary bodies after the date of August 12, 2006 (the date when the legislative bill for the abolition of articles 205-207 of the Penal Code came into force), violated an essential condition stipulated by the jurisprudence of the European Court of Human Rights because the interference with the right guaranteed by article 10 of the European Convention was not stipulated by law.²⁵⁹

As far as the new Penal and Civil Codes are concerned, we wish to reiterate that although the Government ordered

²⁵⁶ No. 62 of January 18, 2007 (Official Gazette no. 104 of February 12, 2007). More details on the CC decision in the FreeEx Report - Press Freedom in Romania 2007, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, May 2008.

²⁵⁷ Appeal on Points of Law, the Romanian General Prosecutor, Laura Codruța Kovesi, August 25, 2010.

²⁵⁸ HCCJ decision has not yet been drafted and published in the Official Gazette, but it was made public through an official statement regarding this solution.

²⁵⁹ See "Legal Guide for journalists" - third edition, published by ActiveWatch - Media Monitoring Agency, Authors: Monica Macavei, Adriana Dăgăliță, Dan Mihai; ActiveWatch.ro, Bucharest, 2009, p. 9-11 (available only in Romanian).

the Parliament in 2009 to adopt them²⁶⁰, as an emergency procedure, the enforcement of these normative acts was delayed for a long period of time. Therefore, the codes should come into force either in October 2011, or on January 1, 2012 (the government announced that by June 2011 it will send the Parliament the legislative bills for the implementation of the codes), that is two years after their rushed passing and with hasty public debates. In consequence, until the new codes are enforced, the stipulations of the old Civil and Penal codes remain in effect.²⁶¹

Although the new codes will be enforced more than two years after being adopted, there is no sufficient public information to confirm the existence of substantial and efficient training programs for magistrates (judges, attorneys) in these matters, consequently there is the risk of an uneven, even extremely different, implementation of these new stipulations.

As far as the press is concerned, the offences referring to the libel of an individual (insult and libel) have been eliminated from the new Penal Code; however a new offence, the violation of private life, was introduced. Also, the draft code contains a number of other offences that affect freedom of speech: the compromising the interests of justice, the communication of false information, war propaganda, revealing secrets that jeopardize national security.

The New Civil Code contains detailed and restrictive provisions concerning the violation of the right to private life, public image, reputation and dignity, and it introduces a form of temporary prohibition of publication (article 253, para. 1: "An individual whose non-patrimonial rights were infringed upon or threatened may demand the court at any time: (...) b) the ceasing of the infringement and its prohibition in the future, should it still be in progress").

Audiovisual Legislation

During 2010, the National Audiovisual Council (CNA) worked on a draft regulation to amend the Code for the regulation of audiovisual content. The current version of the Code had been adopted in 2006 and it was necessary

²⁶⁰ More details about the negotiations on the new Civil and Penal Codes can be found in the report FreeEx - Press Freedom in Romania in 2009, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, May 2010.

²⁶¹ For a detailed analysis of the application method of the above mentioned Penal Code paragraphs that affect freedom of speech (insult and libel) now eliminated via ICCJ decision from October 2010, propaganda in favor of a totalitarian state - para. 166, actions against constitutional order - para. 166/1, communicating false information - para. 168/1, the disclosure of information that endangers national security - para. 169, insignia offences - para. 236, contempt of lawful authorities- 272/1, instigation to libel - par. 317), see "Legal Guide for journalists - third edition, published by ActiveWatch - Media Monitoring Agency, Authors: Monica Macavei, Adriana Dăgăliță, Dan Michael; ActiveWatch.ro, Bucharest, 2009.

to complement and consolidate it. The Code also needed to be aligned to the law amended in accordance with the new Audiovisual Media Services Directive and other recent documents of the European Union, referring to the audiovisual²⁶². The CNA established a working group and made several public consultations with various stakeholders.

The new Code was adopted in February 2011²⁶³. The Code brings improvements in terms of audiovisual regulations. The main changes were: the advertising system (conditions for product placement, virtual advertising, split screen advertising, sponsorship); strengthening of noncommercial communication rules; consolidating the rules on child protection and renewing the rules for classifying programs; consolidating the rules on games and competitions; adapting the rules on the protection of human dignity, the right to one's own image, the rules on the right of reply; consolidating the rules on providing accurate information and pluralism. Also, another addition to the code is the liberalization of advertising to the supply of public state and private health services (surgeries, clinics, hospitals, pharmacies, etc.).

Some articles need to be discussed in more detail. For example, the new decision gives a more restrictive definition of public interest. Thus, "it is considered to be of legitimate public interest any issues, facts or events that affect society or a community, particularly with regard to: a) preventing or proving the perpetration of an act with criminal implications, b) protecting public health or safety; c) the reporting of misleading claims or cases of incompetence that affect the public²⁶⁴. "The definition will be applied in particular in relation to compliance by broadcasters of the right of people to privacy and family life, home and correspondence. It is prohibited to broadcast news, debates, inquiries or audiovisual reports that constitute an interference in the family and private life of a person, without their consent²⁶⁵, except when the following conditions are cumulatively met: a) there is a legitimate public interest, b) there is a significant and clear link between the private and family life of the person and the justified public interest²⁶⁶. It also prohibits broadcasting or recording images with hidden microphones and cameras, unless the recordings thus obtained could not have been made under normal circumstances and their content justly serves the public interest. However, an article refers to the right to one's own image: "The right to one's own image should not prevent truth finding on matters of legitimate public interest²⁶⁷."

²⁶² According to CNA's Annual Report for 2010, page 7.

²⁶³ Decision no. 220 from February 24, 2011 regarding the regulation of audiovisual content code, published in Official Gazette Nr. 174 of March 11, 2011.

²⁶⁴ Art. 31.

²⁶⁵ Art. 33, alin. 3.

²⁶⁶ Art. 33, alin. 4. This provision is also found in the old code.

²⁶⁷ Art. 32, alin. 3. This provision is also found in the old code.

This definition was much broader in the 2006 Code: “In the sense of this code, any problems, local or national actions or events with significance to community life are considered to be of a justified public interest.” ActiveWatch, the Centre for Independent Journalism and APADOR-CH argued before the CNA to maintain the old definition, the principle that covers all situations of public interest, as they are found in the European Court of Human Rights or in other European jurisdictions.

Another problem posed by an article that prohibits the “dissemination of images or recordings of people in a state of detention, arrest or serving a custodial sentence, without their consent, given that any person accused or investigated for committing a crime is presumed innocent as long as he has not been convicted by a final court decision²⁶⁸”. Drafted with the intention of contributing to the compliance with the presumption of innocence, the article contains no exception for filming in public. Furthermore, it prevents filming inside the courts, although the Superior Council of Magistrates allows it (only for the courtrooms the judge’s and the parties’ consent is required)²⁶⁹. The article contains no exception as far as the public interest is concerned and violates the right to information. CNA argued that the practice of bringing people to court handcuffed and the dissemination of images of these people violate their right to their image and affect the presumption of innocence.

The Code also states that “information concerning a fact or an event [should] be correct, verified and presented impartially and in good faith.” The wording has been criticized on the grounds that the journalist cannot be the holder of absolute truth²⁷⁰. The journalist has, according to ECHR’s case law, the obligation to report in good faith. An alternative wording was proposed in the debate: “information concerning a fact or an event [should] be presented in a balanced, unbiased manner and in good faith, after reasonable efforts have been made to verify the information²⁷¹”. The wording containing the term “fair” remained in the final text, the argument being that even the Ofcom Code (the UK Office of audiovisual) contains similar wording.

An article that would have guaranteed freedom of speech to broadcasters and journalists, prohibiting editorial interference, was eliminated from the final version of the Code.

²⁶⁸ Art. 42.

²⁶⁹ “Guide of proper practices for the cooperation between courts, the prosecutor’s offices affiliated to them and the media”, adopted by the Superior Council of the Magistracy by Resolution no. 277 of April 13, 2006.

²⁷⁰ Comments by ActiveWatch, Center for Independent Journalism and APADOR-CH.

²⁷¹ Comments by ActiveWatch, Center for Independent Journalism and APADOR-CH.

The text is objectionable in some details, but, in fact, the way in which the CNA will interpret it once in practice is of a much higher importance.

Immediately after the adoption of the Code and its publication in the Official Gazette in March 2011, the Committee for Culture, Arts and Media of the Chamber of Deputies initiated a draft law that integrated most of the code into the Audiovisual Law²⁷². The initiative was void, given the fact that, once entered into law, the provisions would have become less flexible and the CNA would no longer have had the freedom to adjust its policies according to changes of control in the audiovisual environment. During debates at the Commission, the draft law was modified so that items that were amended or added to the law had a more reasonable format. Yet, several restrictive provisions have been introduced. For example, in the current draft, the terms for filming with a hidden camera are more restrictive than those contained in the code.

The draft law is to be debated by the plenum of the Chamber and then submitted to the Senate (decision making chamber).

In November 2010, the CNA launched a debate on the need to amend the audiovisual *must-carry* principle.

According to art. 82, para. 1 of the Audiovisual Law, program services distributors are required to include in their offer the programs of the Romanian Television Company in Romania, intended for the Romanian public (6 TV channels), and, in descending order of annual audience index, up to 25% of the number of broadcasted programs, to include radio broadcasters licensed in Romania, which are not conditioned in any way to relay (neither technically, nor financially)²⁷³. Added to these are two local stations, two regional stations and one station for minorities, where appropriate, meaning the minority is of over 20%, plus TV5 (in the case of which Romania has a agreement for promoting its distribution, concluded with France). Radu Petric, president of the Cable Communications Association (ACC), said that “By amending the law, the 25 % commercial programs are joined by nine local, regional channels and by those that are included in state deals (TV5), which makes the *must carry* now represent 40% of the program listings>>”²⁷⁴.

²⁷² PL-x no. 48/2011. Initiators: Raluca Turcan, Cezar Preda, Brîndușa Novac, Doinița-Mariana Chircu.

²⁷³ Article 82 of Audiovisual Law no. 504/2002 with its subsequent amendments.

²⁷⁴ “LAW-COMMUNITY-LAW-VIOLATION / Audiovisual Law violates the principle of technological neutrality”, Media Express, January 26, 2010.

CNA opened a debate on the viability of this article. Several issues were raised in the CNA debates. A first source of discontent was the fact that the rule, as it is now defined in the law, requires cable companies to broadcast channels with a lower educational and cultural content, focused on entertainment, such as FavoritTV, MyneleTV, PartyTV, TarafTV²⁷⁵. It was claimed in the debate that the *must-carry* principle is intended to protect those that provide a public, community, possibly cultural service, from the harsh rules of the market, to which, in strictly capitalist conditions, consumers would not have access. “We got to the point that some cable companies no longer wanted to rebroadcast “manele” channels and we had to sanction them,” said Răsvan Popescu, president of the CNA²⁷⁶.

It was also said that mandatory inclusion in the package creates a vicious circle, which does not help the entry of new channels on the market (those that are included, automatically appear in the measurements, therefore in the *media buying* plan of the advertising agencies) and is contrary to the principle of supply and demand.

Another issue that was raised was the fact that there are some media companies that have some channels that are free for to broadcast, while others are on payment. The most controversial is the Antena TV Group, sponsored by the Voiculescu family, which negotiates with cable companies the broadcast of free channels, conditioned by the purchase of those on payment²⁷⁷. In reply, Antena Group sued RCS & RDS, requiring the recovery of a prejudice estimated at about EUR 60 million, which was caused by the communications operators “over the last three years by illegally charging the subscribing public fees for the retransmission of *must-carry* channels”²⁷⁸. Other media groups such as the one structured around Pro TV, were not publicly reported as imposing such conditions. For example, even though the pennant television of Media Pro - Pro TV - is free, the rest of the channels in the group - Acasa, Pro Cinema, Sport.ro or MTV Romania - are distributed on a per subscriber fee.

It was also shown that there are channels such as Discovery or National Geographic, many music channels and almost all channels for children, which are not licensed in Romania and cannot be included in the *must-carry* package,

²⁷⁵ See full listing on the CNA website: <http://www.cna.ro/Topul-sta-ilor-TV.html>.

²⁷⁶ “CNA wants to remove manele from cable companies’ grids, but not the <<must carry>>” rule, Mediafax.ro, November 24, 2010.

²⁷⁷ RCS & RDS made a complaint against Antena TV Group in early April 2011 at the National Audiovisual Council (CNA) alleging that the retransmission of Antena 1 and Antena 3, which have the status “*must-carry*”, is conditioned upon the broadcasting, on payment, of Antena 2 and Euforia. “Antena Group sued RCS & RDS, requiring the recovery of damages estimated at EUR 60 million”, Adrian Vasilache, HotNews.ro, April 21, 2011.

²⁷⁸ Ibidem.

which creates commercial treatment discrimination on the Romanian television distribution market.

At the opposite pole, a view was expressed that if the *must-carry* principle should change, there is a risk that, on a market on which cable companies sometimes have local monopolies, they could yield to pressures and remove from the grid, for example, politically undesirable channels²⁷⁹.

The most liberal proposal in the CNA debates of November 2010 was that the *must-carry* should only include public television channels such as TVR 1, TVR2, TVR Cultural, two local channels, two regional, one channel for minorities, where appropriate, and TV5²⁸⁰. Another proposal was that, to this list, one should also add a few other European public channels, such as BBC, DeutscheWelle or Arte.

These proposals were presented by the CNA at the end of November, before the Committee for Culture, Arts and Media of the Chamber of Deputies, with the hope that the deputies should include these provisions in the initiative to amend the Audiovisual Law, initiated by several deputies, including the chairman of the Chamber’s Culture Committee, Raluca Turcan (PDL).

The changing of the *must-carry* principle has been, however, criticized by many voices within the CNA. Also, the Romanian Association of Audiovisual Communications (ARCA), the association of the main radio broadcasters on the market, urged Parliament not to allow the request to amend the law as proposed by a majority of the CNA members. ARCA said that “the proposed amendments would create a serious risk of damage to public interest, in that the decision on public access to private Romanian channels would be left to the discretion of cable and satellite distributors²⁸¹. ARCA also said that the *must-carry* rule is “a general rule practiced in Europe and the world and has materialized for the first time in Romania in the relationship between cable television distributors and private television channels, under the agreement made by the TV and radio association (ARCA) and the association of cable television distributors (ACC), which was later, in 2002, integrated in the Audiovisual Law. [...] As a result of the amendments proposed by the CNA, the *must-carry* rule should have disappeared, with the risk that private broadcasters would have been required to pay for the cable retransmission of their programs, at the very time when the

²⁷⁹ “The citizen’s options are very limited. There are many towns with just one cable company. Once we let go of the TV channels protected by the <<must-carry>> there is a risk of distortion from cable companies who hold monopoly”, said Răsvan Popescu, quoted in “CNA Wants to Remove Manele channels from cable companies’ grids but not the <<must-carry>> rule”, Mediafax.ro, November 24, 2010.

²⁸⁰ “Radio and TV companies Association asks Parliament not to eliminate the <<must-carry> rule”, Mediafax, November 24, 2010.

²⁸¹ Ibidem.

prolonged economic crisis drastically reduced their funding resources²⁸².”

In reply, Radu Petric, president of the Cable Communications Association (ACC), stated: “I think it is appropriate to adapt legislation to new market realities. While in the early '90s the goal was to encourage the emergence of local channels, the situation is different now. Such protection is pointless. Any program that has good ratings and is requested by the audience will remain in the grid, whether or not we are obligated to retransmit it. My opinion is that a restriction of this requirement will encourage competition and the emergence of new players on the market²⁸³.”

For commercial television stations the *must-carry* principle is integrated in various forms in the legislation of Austria, Belgium, Finland, Germany, the Netherlands, Spain, United Kingdom. In Denmark, France, Hungary, Bosnia-Herzegovina, Macedonia, Montenegro, Norway, the *must carry* only concerns public channels (Hungary includes non-profit stations as well). Italy has no *must-carry* regulations²⁸⁴.

Finally, the media Committee of the Chamber of Deputies gave up in full the inclusion of an amendment to the *must-carry* rule in the draft for the amendment of the Audiovisual Law, on the agenda of the specialized committees of the Parliament at the end of 2010 and in the spring of 2011. However, talks may resume in the Senate and the law could be changed.

The *must-carry* principle is defined in Article 31 of the universal service Directive²⁸⁵, which states:

(a) Member States may impose reasonable “must carry” obligations, for the transmission of specified radio and television broadcast channels and services, on undertakings under their jurisdiction providing electronic communications networks used for the distribution of radio or television broadcasts to the public where a significant number of end-users of such networks use them as their principal means to receive radio and television broadcasts. Such obligations shall only be imposed where they are necessary to meet clearly defined general interest objectives and shall be proportionate and transparent. The obligations shall be subject to periodical review.

²⁸² “Radio and TV companies Association asks Parliament not to eliminate the <<must-carry> rule”, Mediafax, November 24, 2010.

²⁸³ “CNA wants <<cable guys>> to turn into moguls”, Raluca ION, Diana MARCU, Ionuț MORAR, 24 November 24, 2011.

²⁸⁴ CNA Document.

²⁸⁵ Directive 2002/22/EC of the European Parliament and the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, p. 51, Special Edition 13 / vol 35, p. 213).

(b) Neither paragraph 1 of this Article nor Article 3(2) of Directive 2002/19/EC (Access Directive) shall prejudice the ability of Member States to determine appropriate remuneration, if any, in respect of measures taken in accordance with this Article while ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks. Where remuneration is provided for, Member States shall ensure that it is applied in a proportionate and transparent manner.”

A recent decision of the European Court of Justice²⁸⁶ against Belgium says: “designating certain television channels that are subject to an obligation to be broadcasted (...) is a restriction on freedom to provide services. (...) According to Court case law, such a restriction of a fundamental freedom guaranteed by the EU Treaty [European Union Fundamental Treaty] may be justified when responding to reasons of overriding public interest, to the extent that it is capable of attaining the objective pursued and does not go beyond what is necessary to achieve that objective (United Pan-Europe Communications Belgium and others Decision [...]). Similarly, Article 31 (1) of the Universal Service Directive allows member states to impose reasonable obligations where such obligations <<are necessary to meet a clearly defined general interest >> and requires these obligations to be <<proportionate and transparent>>. (...) According to a settled case, and as the Commission acknowledges in this case, a cultural policy may constitute an overriding interest which justifies a restriction on freedom to provide services.”

The same recent decision of the European Court of Justice recalled that the nature of the criteria under which the beneficiary is granted the status of the obligation to broadcast must not be discriminatory. “In particular, the granting of this status must not be subject, either in law or in fact, to a requirement of establishment on the national territory (United Pan-Europe Communications Belgium and Others Decision [...])”.

It follows, therefore, that, at present, the Romanian legislation *must-carry* rule might violate the European principles, considering the fact that, for example, it only includes broadcasters under the jurisdiction of Romania and the international treaties on diplomatic level.

The debate on the *must-carry* will be affected by conversion to digitization as well. Cable companies will argue that if multiplex operators should charge television stations in order to include them in the package of terrestrial broadcasting, cable should then be able to do

²⁸⁶ Court Resolution of March 3, 2011 (C-134/10).

so too. Otherwise, the situation would be likely to be, again, in conflict with the principle of non-discrimination in European law.

In conclusion, in the case of Romania, it should be decided to what extent the current rule responds to overriding public interests. The current criteria of the law, for inclusion into the must-carry, are those regarding the audience and the gratuity. These criteria must be reviewed and it must be seen to what extent they are consistent with the objectives of the Audiovisual Law. Article 3 of the Law states: “By showing and re-broadcasting programming services, political and social pluralism are ensured, as well as cultural diversity, linguistic and religious identity, informing, educating and entertaining the public while respecting fundamental freedoms and human rights.”

Therefore, one must examine whether the current *must-carry* rule is: 1. consistent with public interests, 2. consistent with the interests of TV channels, 3. consistent with the objectives of the regulatory authority CNA, 4. consistent with Government objectives, 5. consistent with the interests of the cable companies, 6. consistent with European legislation and jurisprudence.

In 2009, the European Commission commenced two infringement procedures against Romania, stating the lack of independence of the **regulating authority in communications** and the fact that the Ministry of Communications has regulating duties and, simultaneously, is a shareholder of Romtelecom and Radiocom.

To put a stop to the infringement procedure, in the beginning of March 2009, the Government adopted an Emergency Ordinance (no. 22/2009) to establish a new telecom regulating authority, ANCOM. The ordinance was rapidly adopted by the Chamber of Deputies, however, for almost 1 year, it remained blocked at the Senate²⁸⁷. Finally, the ordinance was approved by Law 113/2010.

Under the new law, ANCOM is headed by a president and two vice-presidents, appointed by the Romanian President, proposed by the Government (art. 11, para. 1). The ANCOM President has budgetary independence from the Ministry of Communication (article 12, para. 2). ANCOM’s activity is analyzed by the Parliament, by discussing the annual report and specific reports submitted to the Committee for Information Technology and Communications of the Chamber of Deputies and the Economic Committee, for Industries and Services of the Senate (Article 15, para. 1).

²⁸⁷ “Gabriel Sandu-Neelie Kroes Meeting: How Romanian authorities are trying to solve two infringement procedures against Romania for telecom problems”, by Adrian Vasilache, HotNews.ro, March 25, 2010.

ANCOM’s independence is important to the audiovisual market as far as **digitization** is concerned, because this authority has the role of issuing terrestrial digital broadcast technical licenses, organizing public auctions for the acquisition of digital multiplexes and plays a role in informing the population regarding the transition to digital television²⁸⁸.

In 2010, the government postponed the date for the transition to digital television to 2015, compared to 2012, the date initially communicated to the European Commission. The ANCOM President, Cătălin Marinescu, had stated that by the end of third quarter of 2010, the winners for the operation of all 6 multiplexes²⁸⁹ would be announced. The national strategy for the transition to digital TV, approved by the Government in October 2009²⁹⁰, provided that the first two digital multiplexes (by means of which 14 TV channels in digital format would be free) should be awarded by the end of 2009. In June 2010, the Government adopted a new Resolution that modified the digital transition strategy²⁹¹. Based on this decision, ANCOM began to organize two auctions for awarding the first two multiplexes. While the auction was taking place (7 companies participated: RCS&RDS, Romtelecom, TDF S.A.S., Media Sat, National Radio Communications Society, Osterreichische Rundfunksender GmbH & Co KG and General Satellite Sofia), the Government unexpectedly decided to adopt a new Resolution to modify the Strategy²⁹², which delayed the process of shutdown of terrestrial analogue broadcasting from January 1, 2012 to January, 2015²⁹³.

ANCOM president, Cătălin Marinescu, criticized this decision that was made without his consultation. He stated that because of this delay, “Romania will miss the start to the development of new broadband mobile communication services and the investments in this field”²⁹⁴. The official

²⁸⁸ More information regarding the ANCOM situation in the “Mapping Digital Media - Romania” report, by: Manuela Preoteasa, Iulian Comănescu, Ioana Avădani, Adrian Vasilache. The report will be published by the Open Society Institute in 2011.

²⁸⁹ “Cătălin Marinescu, ANCOM President: Portability, connection fees and informational rights are the main consumer benefits in 2010”, by Adrian Vasilache, HotNews.ro, December 24, 2009.

²⁹⁰ Resolution no. 1213 from 10/07/2009, published in the Official Monitor, part 1, no. 721 from 10/26/2009 to approve the strategy regarding the transition to digital TV and the implementation of multimedia digital services at national level, modified through government resolution: H.G. no. 464/2010 published in the Official Monitor no. 357 from 05/31/2010. The strategy was later modified by resolution no. 833 from 08/11/2010, published in the Official Monitor, part 1, no. 609 from 08/27//2010 (Enforced on: 27/08/2010) to modify the strategy regarding the transition from analogue terrestrial broadcast to digital terrestrial broadcast and the implementation of multimedia digital services at national level; approved by government resolution no. 1.213/2009.

²⁹¹ See previous footnote.

²⁹² See previous footnote.

²⁹³ “Granting of the first two digital terrestrial licenses in Romania was cancelled. ANCOM President: Romania is missing the start of new services in mobile broadband services”, by Adrian Vasilache, HotNews.ro, August 31, 2010.

²⁹⁴ “Granting of the first two digital terrestrial licenses in Romania was

reason, invoked by the government in the substantiation note was that the delay in the implementation until 2015 “gives the opportunity of economic operators to prepare for the new technologies, and, simultaneously, Romanian citizens will not be subjected to additional expenses by having to purchase new technological equipment in this difficult economic situation²⁹⁵”. The government also stated that Romania was forced to end terrestrial analogue TV broadcast only in 2015.

The real reasons for this delay were not made public by the Government. Most likely, however, the delay of terrestrial digitization was dictated exclusively by the impossibility to award a multiplex to the National Radio Communications Society (Radiocom), because of the current bankruptcy of this state-owned company. The participation requirements included, among others, the condition of debt-free bidders, and Radiocom did not meet this requirement²⁹⁶.

The government tried to directly grant Radiocom a digital terrestrial broadcasting license, stating that “on the national market there are no other operators with greater coverage than Radiocom. The current infrastructure of Radiocom allows for TVR 1 and TVR 2 to cover 95% of the national audience and, with minor changes, it can ensure the requested parameters of coverage needed for the transition to digital terrestrial broadcasting within the timeframe requested by the European Commission²⁹⁷”. As stated above, in fact, Radiocom has financial problems and cannot meet the criteria of participating as a bidder in the auction for the operation of a multiplex. Radiocom is the state owned company the sole shareholder of which is the Ministry of Communication. In 2009 Radiocom established the goal of operating 3 out of the 6 digital multiplexes and stated that in order to cover 95% of the Romanian population it would need to make investments of EUR 60 million²⁹⁸. In other European Union countries the state made a multiplex available free of charge to the public television. In Romania, the programming content of the Romanian Television Company is re-broadcasted via Radiocom. The initiative of directly awarding a multiplex

cancelled. ANCOM President: Romania is missing the start of new services in mobile broadband services”, by [Adrian Vasilache](#), HotNews.ro, August 31 2010.

²⁹⁵ “The decision to delay the transition to digital TV until January 1, 2015 was published in the Official Monitor” by [Adrian Vasilache](#), HotNews.ro, August 30, 2010.

²⁹⁶ “DIGITIZATION-DELAY / The deadline for the end of analogue broadcast delayed until January 2015”, MEDIA EXPRES, August 30, 2010 - [www.mediaexpres.ro](#).

“DEBT-PARDONED/ “Radiocom was pardoned from paying fiscal obligations of about 8,5 million euro”, MEDIA EXPRES, March 4, 2011 - [www.mediaexpres.ro](#).

²⁹⁷ “Submission deadline for digital television licenses extended to September 17”, by [Adrian Vasilache](#) HotNews.ro, August 5 2010.

²⁹⁸ 5% of Romanians will not receive digital coverage because of costs.

“Digital Terrestrial Signal is free for 90% of Romanians, not possible until January 1, 2012”, by [Adrian Vasilache](#), HotNews.ro, November 12, 2009.

to Radiocom was denied by both CNA and ANCOM and was postponed for the moment. However, in March 2011, CNA voted in favor of an emergency ordinance that awarded a multiplex to the Romanian Television Company²⁹⁹.

According to the new 2010 strategy, the first deadline for the digital terrestrial broadcast of public television channels and of the private ones that shall be broadcast on the first two multiplexes is June 30, 2014. At that time, such programs should be able to cover at least 60% of the population and 50% of the territory³⁰⁰. The deadline for the terrestrial digitization as far as the Romanian Television is concerned was set for December 31, 2015, when 95% of the national territory would be able to receive digital terrestrial signals³⁰¹.

The digitization should have positive effects on the market. There shall be a diversification of the sources of information, with more channels received free of charge on a national level. The freed frequency spectrum shall allow for the development of new businesses, such as wireless internet and other innovative commercial applications.

The cable market will, most likely, not be seriously affected by the introduction of digital terrestrial transmission. Digital transmission means that the main TV channels will be available for free for the entire country (free reception shall be available only with new television sets and/or with a terrestrial antenna digital decoder). For TV stations, the transition to the digital system implies additional costs and, therefore, the need to find the best business solutions (for example, forming coalitions to occupy multiplexes in advantageous financial conditions).

The lack of information of the population regarding this process remains problematic. According to a new draft Government Decision, discussed at the beginning of 2011, starting from January 1, 2012 there will be a campaign for the information and promotion of the process of transition to digital television³⁰². The substantiation note of the draft normative act states³⁰³ that almost 17% of Romanian households currently receive TV signal in analogue format.

The delay in transitioning to digital television also has an

²⁹⁹ “CNA: Romanian television will receive one of the 6 licenses for digital TV-project” March 10, 2011, [www.tvdigitala.ro](#).

³⁰⁰ “DIGITIZATION-DELAY / The deadline for the end of analogue broadcast delayed until January 2015”, MEDIA EXPRES, August 30, 2010 - [www.mediaexpres.ro](#).

³⁰¹ “DIGITIZATION-DELAY / The deadline for the end of analogue broadcast delayed until January 2015”, MEDIA EXPRES, August 30, 2010 - [www.mediaexpres.ro](#).

³⁰² “Vreme: The Government could approve HG project of digital TV transition by April 15”, March 31, 2011 - [www.tvdigitala.ro](#).

³⁰³ Ibidem.

impact on the development of broadband wireless IT services (which will be able to use a section of the freed frequency spectrum - the digital dividend³⁰⁴).

Two legislative initiatives with an impact on broadcasting surprised broadcasters and media organizations at the end of 2010.

One of them proposed **amendments to the Audiovisual Law, under which radio broadcasters would have to program Romanian musical works at least 40% of the transmission time, excluding time spent on news, sports events, games, advertising, teletext and teleshopping services**³⁰⁵. The legislative proposal, which amended the Audiovisual Law, was initiated by parliament members Raluca Turcan (PDL) Brandusa Novac (PDL), Victor Socaciu (PSD), Mădălin Voicu (PSD) and Cristian Țopescu (PNL). The project was received favorably by the Committee of Culture, Arts and Media of the Chamber of Deputies and at the beginning of November was tacitly adopted in said Parliament chamber. In mid-February 2011, the Senate Committee for Culture denied the proposal³⁰⁶.

The CNA explained that the legislative proposal is contrary to the European directive on audiovisual services, which provides for EU countries a proportion of European works, not musical works and not national works³⁰⁷.

Victor Socaciu and Mădălin Voicu, two of the initiators of the law, were in a conflict of interests. Mădălin Voicu is a member of CREDIDAM. Victor Socaciu belongs to two management committees, both of UCMR-ADA and of CREDIDAM. The two bodies represent the interests of composers and lyricists and of the performers, and collect and distribute the money due to them, obtained from the broadcasting of commercial recordings on the territory of Romania by radio, TV, cable stations, etc.

Another legislative initiative to amend the Audiovisual Law belonged to the liberal deputy Mirel Talos. Under this project, **general TV channels would be required to weekly distribute at least 120 minutes of cultural or educational programs, while news channels should broadcast each week 30 minutes of such programs.**

According to the project, cultural and educational

³⁰⁴ "The granting of the first two digital terrestrial licenses in Romania was cancelled. ANCOM President: Romania is missing the start of new services in mobile broadband services", by Adrian Vasilache, HotNews.ro, August 31 2010.

³⁰⁵ PL-x nr. 490/2010.

³⁰⁶ L748/2010.

³⁰⁷ Ioan Onisei quoted in "The Proposal to oblige broadcasters to air 40% Romanian Music, rejected by Parliament", Mediafax.ro, 8 februarie 2011.

programs include: music (classical music concerts or recitals, shows about the history of music, opera, etc.), fine arts and decorative arts; literature; theatre; cinematographic art; ballet; architecture; Romanian popular culture (shows on customs, Romanian popular music, placed in a critical or historical context, shows presenting the civilization of the Romanian village, etc.); European popular culture (European civilization presentation shows, shows on customs, etc.); history; science.

The project had the support of the CNA (only one vote against and one abstention³⁰⁸.)

In February 2011, the project was tacitly adopted by the Chamber of Deputies and submitted to the Senate³⁰⁹, where, in April 2011, it was being reviewed by the standing committees.

Law for the operation of the public radio and television services

The Law on the operation of the Romanian Radio Company (SRR) and the Romanian Television Company (SRTV)³¹⁰ was not subject to amendments in 2010 either.

In a public intervention in April 2010, Prime Minister Emil Boc had announced PDL's intention to promote the de-politicization of the public television and radio: "Let us not forget about the things promised by the opposition, such as the de-politicization of radio and television. Neither we, nor the President of Romania, when we were in opposition, blaming the mechanism of politicization of radio and television, appointed ourselves as representatives in the boards of directors. Now, when we have the power, we cannot deny what we sat and discussed yesterday with coalition partners and we requested that we should comply with our commitment to modernize the law that is now in the Senate and find a mechanism to take these public radio and television services from under the political influence, through mechanisms that can ensure it"³¹¹. "Victor Ponta said, in his turn, that he would support any just law that will lead to the real de-politicization of public radio and television"³¹².

In early 2009, in the new legislature of the Parliament, Raluca Turcan restarted the law amendment process began

³⁰⁸ "General television and news channels, forced to broadcast cultural and educational shows - draft", Mediafax, November 23, 2010.

³⁰⁹ At the Senate it is registered under no. L194/2011.

³¹⁰ Law no. 41 of June 17, 1994.

³¹¹ "Boc: We asked our governing partners to remove politics from public radio and TV", Mediafax.ro, Aprilie 9, 2010.

³¹² "Ponta: We support the removal of politics from TVR and SRR, even if Boc changes his mind one month from now", Mediafax.ro, Aprilie 9, 2010.

in 2005³¹³, by bringing back into public debate the draft law rejected by the Senate in 2008. Following the debate in 2009, the draft had undergone improvements, many of the amendments proposed by NGOs and other experts who participated in the discussions were incorporated into the new draft submitted to the Media Committee of the Chamber of Deputies in May. The draft was not perfect, but it was the best written to date, in point of the protection from political interference offered to the two institutions. Another quality of this draft was that it fully benefitted from public debate, while a few other legislative initiatives had had the chance.

The main changes made by Turcan in the 2009 draft version were:

- Eliminating the possibility of dismissal of the Board of Directors (BD), if the Parliament rejects the annual activity report;
- Separating the position of President - General Manager into President and General Manager (separation of the executive position from the strategic decision one);
- Mandatory independent audit, plus the possibility of establishing an editorial evaluation committee to annually assess the observance of public duty;
- Definition of certain criteria of competence and incompatibility for BD members (not clearly defined by the draft law, which was a shortcoming of the text);
- Defining the public service role and mission and increasing public accountability of both institutions to the detriment of commercial interests;
- Balancing the political make-up of the BD with the inclusion of civil society representatives;
- Extending of the mandate of BD members to 5 years so that it no longer overlaps the electoral cycle.

The main problem remained the fact that this legislative initiative lacked the political support, due to the absence of the will to free SRTV and SRR from the political influence. Raluca Turcan's initiative was perceived by part of the political environment as a tool for the removal of the current managements of SRTV and SRR and their replacement with other appointees favored by certain political parties, which, before the elections for the Presidency of Romania, was not an option favored by the PSD, which risked losing the leadership of TVR³¹⁴. As a result, in June 2009, the law was once again rejected by the Chamber of Deputies. PSD, PNL and UDMR voted against it.

In 2010, Raluca Turcan continued in the Parliament the

³¹³ For a history of law, see the FreeEx Report - "Press Freedom in Romania 2009", ActiveWatch, ActiveWatch.ro, May 2010.

³¹⁴ "PSD, PNL and UDMR have rejected reform of the law of operation of public television and radio. Raluca Turcan: The vote that gave you the sentence that you signed to become PSD Public Television LLC", Luminița Pârnu, HotNews.ro, June 23, 2009.

circuit of the draft law, which had been rejected by the Chamber of Deputies in the autumn of 2009.

But after political negotiations, the form dismissed in the Senate was radically altered. Thus, in a first draft of this law, the Boards of Directors of both institutions should have been formed of: a) non-governmental organizations representing civil society - 11 permanent seats and 11 alternates, b) the Hungarian minority represented in the Parliament - 1 permanent seat and 1 alternate, c) national minorities represented in the Parliament - 1 permanent seat and 1 alternate (art. 20).

Media organizations have indicated that several changes were required to the proposed text. Regarding the Board of Directors, a group of media and human rights organizations ³¹⁵ demanded that appointments be made as follows: a) associations, foundations or federations from the following sectors: - social, health, education and research, environmental protection, civic, philanthropic, culture and religions, media, physical education and sport, 2 seats for each sector, namely 1 permanent (full) and 1 alternate seat for a total of 9 full and 9 alternate seats; minorities, 4 seats each or 2 permanent seats and 2 alternates, b) employees of SRTV and SRR - 2 members and 2 alternates, according to minutes from the internal elections of the two institutions.

The nominating associations, foundations or associations had, in their turn, to meet several eligibility criteria. In addition, as proposed by these organizations, candidates should have to meet the following criteria:

1. Professional experience of at least five years;
2. Knowledge of audiovisual legislation;
3. Expertise in communications / media, management and in the field of the legal entity which nominated them;
4. They cannot hold positions in the governing structures of a party or political organization.

The proposals were ignored in the Media Committee of the Senate. Moreover, debates were held behind closed doors³¹⁶. At the meeting held on May 26, trade unions, human rights, and professional NGOs, respectively, were allowed to argue their amendments to the draft law, following

³¹⁵ Proposals for amendments submitted to the Commission on May 20 to the Senate by ActiveWatch Media Monitoring Agency, Centre for Independent Journalism, Journalists Association of Romania, Soros Foundation Romania, Epsilon III Association, Female Journalists Association, Galati Journalists Syndicate, Journalists League Sibiu, Cluj Press Professional Association, Association of Hungarian Journalists, Media Organizations Convention.

³¹⁶ "Serious lack of transparency in the Senate's Media Committee", press release of ActiveWatch - Media Monitoring Agency, Centre for Independent Journalism and Romanian Federation of Journalists MediaSind, May 26, 2010 - www.activewatch.ro

which the Chairman of the Committee, Senator Sergiu Nicolaescu, asked them to leave the room, together with everyone who was not a parliamentary, including journalists. None of the Committee's members - representatives of all parliamentary parties were in the room - intervened in favor of transparency³¹⁷.

In the Committee's meeting, key changes were made to the draft law. Thus, according to the draft law adopted by the Committee and submitted to the plenum, the BDs of both institutions should have been formed of representatives of creation unions and certain media organizations (those nominated were the Romanian Press Club, the Centre for Independent Journalism and the Romanian Journalists Association, a representative of the Romanian Academy) and a single representative of the employees. Even though there had been a consensus on the elimination of political appointees from the Boards of Directors, the draft approved by the Committee included a representative of the Presidency and a representative from UDMR.

Media and human rights organizations criticized the fact that in the new formula, the Board of Directors (BD) was not structured so that all major areas of civil society should be represented³¹⁸. The inclusion in the BD only of representatives of civil society was considered discriminating³¹⁹. The Centre for Independent Journalism and the Romanian Journalists' Association (organizations approved by the draft law) submitted a statement claiming that the appointment of private entities was a weakness in the BD. "If such entities change their name, split off, merge with others or simply dissolve, the law should be revised. Thus, the legislative cycle would follow the evolution of the institutional life cycles of each of the eight nominated organizations", reads the release³²⁰.

Another criticism was that, while UDMR was automatically allotted a place, other minorities with parliamentary representation only received one seat on each Boards of Directors, which was a violation of the Charter of Minorities³²¹.

One also criticized the fact that some of the organizations nominated by law to appoint members in the Boards of Directors were in conflict of interests. Thus, creation

³¹⁷ Ibidem.

³¹⁸ "Civil society does not accept the de-politicization of the facade of public radio and television, press release signed by 14 organizations and trade union confederations, four professional organizations and civil society and an employers' organization, ActiveWatch.ro, June 1, 2010.

³¹⁹ Ibidem.

³²⁰ "CJI and AJR objecting to appointments made to TVR and SRR", press release, June 1, 2010 - www.cji.ro.

³²¹ "Civil society does not accept the de-politicization of the facade of public radio and television, press release signed by 14 organizations and trade union confederations, four professional organizations and civil society and an employers' organization, June 1, 2010 - www.activewatch.ro.

unions (which are directly interested in promoting their members' productions and recovering their receivable from the two companies) were required to appoint 5 of the 13 Board members. Also, the Romanian Press Club is formed of companies competing for press activity with SRR and SRTV³²²).

The draft was also criticized in other respects. In June 2010, the plenum of the Senate rejected the draft and appointed the new BD's under the old law. This process was also criticized by a group of civil society organizations, because in the new BD's one appointed members with close political ties or who were incompatible (for details see chapter on Political Pressures of this report).

In 2010, deputy Silviu Prigoana had another "remarkable" legislative proposal: **transferring TVR Internațional in the suborder of the Ministry of Foreign Affairs**. This change was included in a draft law in September, amending the law for the operation of public television and radio³²³.

The law said: "Within 30 days following the date of publication of this law in the Official Gazette, the public television channel TVR Internațional will be transferred under the administration of the Ministry of Foreign Affairs of Romania, together with its employees, being financed from the budget of said ministry. Decisions on the shows and the programs that will be broadcast by TVR International will be made by the Ministry of Foreign Affairs, in compliance with the provisions of this law. In fulfilling its mission, the Ministry of Foreign Affairs may request, free of charge, productions of the Romanian Television Company and news bulletins can be re-broadcasted directly. Once transferred to the Ministry of Foreign Affairs, TVR Internațional TV station retains the license that it obtained and operates for the purpose of promoting Romania abroad and informing the Romanians living abroad".

The draft was tacitly adopted by the Chamber and in October 2010 it was on the Senate's agenda. The draft attracted a wave of public criticism. The main argument against the law was that it was unconstitutional: article 31, para. 5 of the Constitution states: "Public radio and television services are autonomous". In November, Silviu Prigoană declared that he had made a mistake and that he would withdraw the amendment³²⁴. In December, the Senate's Media Committee denied the amendment.

³²² Ibidem.

³²³ Submitted on September 6 on the agenda of the Chamber of Deputies, no. PL-x no. 442/2010.

³²⁴ "Silviu Prigoană at the Senate: I made a mistake", Carmen Maria Andronache, PaginaDeMedia, November 30, 2010.

The Media Law

During the year, two at the very least objectionable media laws were proposed before the Romanian Parliament.

In September, liberal senator Ion Ghișe introduced a draft **Law of the Journalism Profession**³²⁵. The draft law stated that journalists should be able to perform their activity only if they owned a journalist ID card. Under the draft law, only persons who cumulatively met the following requirements could practice journalism: had the ability to exercise civil rights; was psychically fit to exercise the profession, which would be found through a psychological examination conducted once every three years; was never convicted of theft, rape, robbery, murder, swindling, treason and other acts incompatible with social morals (art. 18, para. 1). The exercise of the journalist profession was considered incompatible with: occupations that harm the dignity and independence of the journalist profession or good manners and morals; the direct exercise of trade activities.

Under the draft law, journalism could only be practiced within individual journalistic offices or associated offices (several journalists). The law also proposed the establishment of a National College of Journalists, which would primarily hold organizational duties, but also having the duty to terminate the right to exercise the profession for the aforementioned incompatibilities. An institution called the Ombudsman was to enforce administrative fines for a series of violations of the law, such as the publication of journalistic material not originating from the holder of a journalist ID card, and even going as far as a temporary ban on the issuance of a publication or the broadcasting of a radio or TV show. At least half of the draft law contained provisions that fell under a code of ethics, and not a law, which clearly exceeded the purpose of the enactment process.

The draft was drawn up without consulting any of the significant organizations of the industry.

The draft was strongly criticized by several journalists, politicians and media and human rights organizations. A large group of organizations showed that: “[...] the press is an organized form of exercising the fundamental right to freedom of expression. Freedom of speech belongs to everyone and cannot be limited for questionable reasons, such as the existence of a criminal conviction, the fact that someone is a businessman or the infringement of morals and manners. Access to the profession can only be restricted by an internal process of self-selection of the profession and

media industry. Limiting access to the profession, expulsion from the profession and the forms of censorship and multiple punishments are excessive restrictions on freedom of expression, which are not necessary in a democratic society and which Romania shall not be able to support before the European Court of Human Rights. [...] This draft law does not address any social pressures. The legal framework in which the press operates (primarily the civil Code, the penal Code, the Audiovisual Law, the Law on free access to public information) is sufficient and in line with European standards. In addition, journalists and media companies have not demanded a reform of the economic framework in which they operate, in the sense of the one proposed by the law (the establishment of collective and individual offices). [...] The aforementioned points so strongly contravene to constitutional principles and the European norms and models that they make the draft law unacceptable. The very idea of a law regulating media activity, outside the legal framework already mentioned, is obsolete and unenforceable³²⁶.”

The draft received a negative response in March 2011 from the Senate’s Human Rights Committee, but it received a favorable response from the Senate’s Legal Committee. However, the idea of a media law has not been completely rejected by the Senate. UDMR Senator Gyorgy Frunda, president of the Senate’s Human Rights Committee, concluded at the meeting, “We should draw up together a *draft* legislative act and we propose to do that in May, when we have a first debate of principles with professional associations. Probably on May 17. We shall send a letter to professional associations, in which we shall ask them to come up with proposals for a new law regulating the media industry. Thus, in June we would come to the Parliament with a draft legislative act developed together with the professional associations and the Romanian Press Club³²⁷”.

The report from the Committee of Culture, Arts and Media in April 2011, was negative. Worthy of noticing, is, however, the disturbingly close vote, given the content of this legislative proposal. Thus, 4 of the Senators present at the committee’s meeting voted against the draft, 2 supported it and 2 abstained.

³²⁶ “Opinion on the draft bill on the profession of journalist “, signed by ActiveWatch - Media Monitoring Agency, Centre for Independent Journalism, Romanian Center for Investigative Journalism, Media Organizations Convention, Romanian Federation of Journalists - MediaSind, the Union of Hungarian Journalists Romania, the Union of Professional Journalists, AltPHel, Galați Journalists Society, the Association of Women Journalists in Romania - Ariadna, PublicMedia Association, Association of Journalists in Romania, the International Sports Press Association, the Romanian Association of Media Professionals, ActiveWatch.ro, March 21, 2011.

³²⁷ “<<(Draft) Law of the Journalist >> Introduced by Ghișe, Rejected by Committees in the Senate”, by Marinela Rață, *Evenimentul Zilei*, March 22, 2011.

³²⁵ The draft law was withdrawn by its initiator and re-introduced in the beginning of 2011 (L162/2011).

Also in September 2010, PD-L deputy Silviu Prigoană initiated an amendment to the audiovisual law, according to which the National Audiovisual Council (CNA) should have granted licenses both for print and online media³²⁸. Publications could not be issued without this license. CNA could suspend the license of a publication for a period of 1, 3 or 6 months if the publication was unable to provide an evidence of truth, in a situation where a person harmed by defamatory statements made a complaint. For other violations, the publication could have had its license revoked. Basically, the draft law initiated by deputy Prigoană Silviu, would have allowed the suppression of publications, in other words it would have reinstated censorship in its most brutal form³²⁹.

The new draft law attracted a wave of public protests again, mainly from journalists and media and human rights organizations, but also from state authorities such as the National Audiovisual Council. Răsvan Popescu, president of said institution, said: “Romania is a member of the European Union and the European Union does not have public authorities that license or sanction the print media. Any possible violations of laws in the print media are only sanctioned by justice”³³⁰.

ActiveWatch also criticized the draft law. The organization claimed that the changes proposed by the Prigoană initiative violate the Constitution several times. “First, Article 30, paragraph 3 and 4 of the Constitution states: <<Freedom of the press also implies the freedom of establishing publications. No publication may be suppressed>>. Freedom of the press was considered at the emergence of this concept as the right to establish publications without the requirement to obtain a license. This right to establish an unlicensed publication was first won in England in 1695. In 2010, only countries with totalitarian governments allow such licenses for the issuance of print media. Secondly, the project violates Articles 11 and 20 of the Constitution, which stipulate that international agreements to which Romania is a signatory party take precedence over national laws. Romania is a signatory party to the European Convention on Human Rights (ECHR), thus adopting the European Court’s jurisprudence as well, which is violated by the draft by promoting the evidence of truth in a manner inconsistent with the practice of the ECHR³³¹.”

The initiative did not receive any support from the party

³²⁸ Pl-x nr. 406/2010.

³²⁹ “Prigoană Sends Romania from the Media Ages to the Middle Ages”, statement by ActiveWatch, ActiveWatch.ro, September 10, 2010.

³³⁰ “CNA: In the European Union, violations of laws in the print media are sanctioned by justice”, Mediafax, September 10, 2010.

³³¹ “Prigoană Sends Romania from New Media to the Middle Ages”, statement by ActiveWatch, ActiveWatch.ro, September 10, 2010.

to which Silviu Prigoană belongs³³². In October 2010 the Committee for Culture, Arts and Media of the Chamber of Deputies³³³ gave a negative report, and, in the same month, this draft was rejected by the Chamber’s plenum³³⁴. In late 2010 the draft also received a negative report from the Senate’s Committee on Human Rights, Religious Minorities and the Committee on Culture, Art and Mass Media³³⁵.

Legislation that regulates the Internet

In August 2010, Lia Olguța Vasilescu, Social Democratic Party senator, announced her intention to bring before the Parliament a law by which the comment section of newspapers and forums should be moderated. “We need to clean up the forums, the serious websites, news agencies, of all the neuropaths and perverts who use swear words and obscenities towards all the other users. Even on the website of a serious news agency such as Mediafax, there are users who throw suburban garbage too all good faith users”³³⁶, said Lia Olguța Vasilescu. “We will adopt a broader legislative package. There should be a certain regulation on the internet. The problem is not just my own experience. My experience is one that all women in politics have had at one time or another. I have received threats about my child, and I am not the only one. Protecting children is very dear to my heart. I was very surprised to find out that you can find obscenities on one of the most important news agency’s website. My niece has recently come to me and asked me what was the meaning of some obscenity she had read about in the comments section of a news story about me. First and foremost, we must think of protecting the children. The idea of a law also came from discussions with several journalists who had asked me to work on such a project”, Olguța Vasilescu also said. In the senator’s view, the regulator should have been the National Audiovisual Council.

The initiative was met by a wave of criticism. Reporters Without Borders and ActiveWatch, its partner organization in Romania, expressed their concern about this initiative. “We believe that such a measure endangers freedom of expression and a potential legislative proposal in this matter is a solution that affects the self-regulating freedom of websites and forums³³⁷”. “The European Court of Human Rights, an

³³² “PDL Says It Respects Freedom of the Press and Does Not Support Prigoana’s Initiative”, NewsIn, September 10, 2010.

³³³ “The Draft Law On The Control of Print and Online by the CNA, Rejected by the Culture Committee of the Chamber of Deputies”, Alina Neagu, HotNews.ro, 5 October 2010.

³³⁴ At the Senate the draft law is registered under no. L685/2010.

³³⁵ BREAKING NEWS - The CNA could regulate internet postings”, InPolitics.ro, August 10, 2010.

³³⁶ “Olguța Vasilescu - war with those who post on the Internet. Swear words on the internet shall be prohibited under the law”, Dan Duca, Realitatea.net, August 10, 2010.

³³⁷ “Internet Law: An Open Letter to the Initiators of the Draft Law”, “Reporters Without Borders and ActiveWatch press release, ActiveWatch.

undeniable landmark for freedom of expression, ruled in numerous of in favor of journalists who used shocking, excessive or abusive language. Many times, freedom of expression prevailed over the arguments of those who said they were harmed”, the two organizations said.

Self-regulation was the solution proposed by most people who spoke publicly on the matter. “We can decide that certain words cannot and should not be used, but we cannot prohibit the entire content of the comment, we can delete a specific word which is considered very offensive to the owner of the forum, but this is exclusively a matter of self-regulation, no politicians can decide in this matter. [...] Today we ban a certain word, and tomorrow we could start to broaden the list of all the words unwanted by politicians, because they are the legislators, not the journalists or those who post comments”, said Liana Ganea, ActiveWatch program director ³³⁸.

Finally, Lia Olguța Vasilescu abandoned the idea of the draft law and turned her attention to identifying methods of self-regulation.

The law of the National Agency for Integrity³³⁹

On February 2, 2010, PDL senator Iulian Urban proposed to the Judicial Committee of the Senate an amendment to a previous draft for the amendment of the law of the National Agency for Integrity (ANI), according to which journalists **were to be compelled by law to present their declarations of interests.**

Thus, reporters, editors, columnists, TV producers, talk-show hosts or even cameramen and photographers could have been compelled by law to declare the interests they have within certain companies, firms or institutions³⁴⁰.

Iulian Urban explained: “This amendment states a very simple fact: journalists, having a capacity of shaping opinions much stronger than a politician, should present declarations of interests to ensure as high a degree of transparency as possible in the activities of journalists in Romania. [...] It is extremely important that those few journalists who are currently faced with certain problems do not obscure the work of those who truly struggle, who search, from dusk till dawn, for a piece of news and comment on it. In this manner

we will be indulging journalists who have all sorts of interests, either in boards of directors, or as shareholders in certain companies, and occupy positions of influence in certain companies. Let them make their investigation, but let any reader know that at the same time they occupy a position of influence in the company that is making accusations, or in the group of interests that is making accusations against the other group of interests.” ³⁴¹

The initiative was condemned by the media organizations: “the principle that journalists should present declarations of interests was constantly upheld by media organizations, but as part of the process of self-regulating the press, and not imposed by the effect of law. In 2007 we saluted the Romanian Press Club’s decision to introduce, in the Code of Ethics, the requirement of RPC member journalists to present declarations of interests. The Unified Code of Ethics promoted by a large group of media organizations in 2009 contains the same ethical principle of the need to declare the conflicts of interest. [...] Such a measure is abusive due to the fact that it regulates a private activity which draws income from private sources. By means of ANI’s operation law, the legislator decided to ensure <<the exercise of **public positions and dignities** in circumstances of impartiality, integrity, transparency>> (Law 144/2007). A journalist’s activity is neither a public position nor a public dignity (...)” ³⁴².

Senator Urban’s amendment was rejected with a majority of votes by the Judicial Committee of the Senate on February 9th, 2010.

In 2010 there was another event connected to the ANI’s operation law, with an impact on the way in which journalists perform their activity. Through a decision made in April³⁴³ concerning a series of exceptions of non-constitutionality of the ANI law, the Constitutional Court noted, among others, that “*the law-stated obligation for statements of assets and liabilities to be published on the webpages of the entities, where the individuals who, according to the provisions of the law, have the obligation to submit them, as well as the mailing of these documents to the Agency to be published on its webpage violate the right and the protection of private life, stipulated through article 26 of the Fundamental law, as well as through article 8 of the Convention for the protection of human rights and fundamental freedoms,*

³⁴¹ Ibidem.

³⁴² “Position to the Proposed Urban Initiative - Declaration of Interest for Journalists”, ActiveWatch - Media Monitoring Agency, Association for Protecting and Promoting Freedom of Expression, Romanian Center for Investigative Journalism, Center for Independent Journalism, ActiveWatch.ro, February 2, 2010.

³⁴³ Decision no. 415, Aprilie 14, 2010, CCR.ro (Judiciary Activity section-Constitutional Check, Admission Decisions).

ro, 18 August 2010.

³³⁸ “Lawmakers Want to Ban Online Users to Swear Online. Danger of Censorship?”, Ziare.com, August 10, 2010.

³³⁹ Law no.144/2007.

³⁴⁰ “Project: Parliamentary Initiative: Journalists should Declare Their Interests. Read the reaction of CTP”, Raul Flores, Gândul, February 2, 2010.

by means of the exposure, not objectively and rationally justified, on the webpage, of data referring to the assets and liabilities of people who have, according to the law, the obligation to present statements of assets and liabilities.”

The immediate consequence was the emergence of a proposal to modify ANI's operation law, initiated in Parliament, which would modify, among other things, public data from the statements of assets and liabilities made available to the public by law-regulated dignitaries. In this way two types of declarations were being created: a public declaration and a confidential one (presented only to ANI).

For instance, the label of confidential data was to be applied to information such as: the addresses of immovable assets (lands, buildings); the year and manner of acquisition of precious metals, jewelry, etc; the institution administering the accounts and bank deposits or information concerning investments, direct investments and loans stated in the statements of assets and liabilities, and data such as the associate and the shareholding.³⁴⁴

These alterations have been severely criticized by journalists, media organizations, good governance organizations and even by some politicians.

Thus, Monica Macovei, former Minister of Justice, summarized the problems raised by that amendment for the activity of journalists and for the public's right to be accurately informed: “Based upon this law, public documents fail to include immovable assets. Lands and houses. They fail to specify the year and manner of acquisition, as well as the surface. The year of acquisition of a house, a land or a building has nothing to do with private life, but only with the money earned in this public capacity. And it goes without saying that the year of acquisition is needed in order to determine whether the acquisition took place during the individual's mandate. Furthermore: the manner of acquisition - purchase or donation. Again, this has nothing to do with private life, but with the manner in which I, as an individual working in the public sector, have acquired this asset. Or, in the case of the size of the asset: it is one thing to receive or buy a five hectare land and quite another to buy a 100, 1,000 or 5,000 hectare land”.³⁴⁵

Despite this, as well as other criticism, the final structure of the law that came out of Parliament contained many stipulations that affected the proper operation of ANI. According to a few non-governmental organizations, Senator

Frunda György - presiding the Judicial Committee meeting of the Senate - played an important part in crippling the law: “senator Frunda was the one who proposed the most backward amendments and who basically castrated the Agency, eliminating any practical possibility for controlling the wealth of dignitaries. Also, the way in which senator Frunda led the session of the Judicial Committee was extremely arrogant and aggressive toward any individual who did not agree to his point of view and he did not ensure a balanced presentation of the situation that would have allowed the senators present at the meeting to make a fully informed decision. Given the current economic crisis that we are dealing with, we consider that senator Frunda's position, as well as the position of all those who voted beside him during the Committee's assembly and in the Senate plenum is offensive to the rest of the population who are demanded to make sacrifices, without politicians taking upon themselves even a minimum of transparency and responsibility.”³⁴⁶

For the issue of classifying certain information from the statements of assets and liabilities, as well as for other aspects that have an impact on the investigation of corruption, several journalists and representatives of media and human rights organizations made an appeal to president Traian Băsescu, whom they have asked not to promulgate the alterations made to the ANI law and the related laws.³⁴⁷

The president returned the law to Parliament and the amendments that concerned the limitation of transparency and public control on a mandate/public position were eliminated³⁴⁸.

The Collective Labour Agreement at the level of Mass Media Industry. Occupational Standards

In early 2010, Romedia and Romanian Press Employers announced in a joint press release that they wanted the Collective Labour Agreement at the level of Mass Media Industry (CCM) renegotiated³⁴⁹. The two employers said that

³⁴⁶ “Frunda György egy vegyél szünetet! György Frunda, come on!”, Romanian Academic Society, Freedom House Romania, Institute for Public Policy, Romanian Center for European Policy, Active Watch - Media Monitoring Agency, the Group for Social Dialogue, Centre for Independent Journalism, Timisoara Society Academy of Advocacy, ActiveWatch.ro, July 1, 2010.

³⁴⁷ “Letter to President Basescu: Do Not Sign the ANI Bill into Law!” by ActiveWatch - Media Monitoring Agency (AMP), Centre for Independent Journalism (CIJ), Pro-Democracy Association (APD), Romanian Center for Investigative Journalism (CRJI) Convention Media Organizations (COM, an alliance of 40 media organizations), Freedom House Romania and the Group for Social Dialogue (GDS); ActiveWatch.ro, May 13, 2010.

³⁴⁸ Law no. 176 of September 1, 2010 regarding integrity in the exercise of public positions and dignities, amending and supplementing Law no. 144/2007 on the establishment, organization and operation of the National Agency for Integrity, as well as for the amendment and supplementing of other normative acts, Official Gazette no. 621, September 2, 2010.

³⁴⁹ “Romedia and Romanian Press Employers Will Renegotiate the Collective Employment Contract at the Media Industry Level”, Mediafax, February 17,

³⁴⁴ “What's Left of ANI” by Paul Chioveanu, AfaceriPublice.ro, July 6, 2010.

³⁴⁵ “Monica Macovei: New Law Protects Politicians from the Public Eye” by Marinela Rață, Evenimentul Zilei, May 13, 2010.

the CCM was “impossible to enforce” and causes the closing down of companies, fewer employees with employment contracts and an increase in the unemployment rate of the media industry³⁵⁰.

“The harassment faced by media corporations through the repeated checks by the Territorial Labor Inspectorate in Bucharest and countrywide, the abusive interpretation of the terms of the Collective Labour Agreement at the level of Mass Media Industry, and the MediaSind press releases on the applicability of this contract, induce a certain state of fear in the media industry and generate a mistaken perception of media corporations, thus affecting their image and stability”, reads the press release of the two business employers organizations.

In response, the Trade Unions Federation MediaSind said “the solution proposed by the two media corporations, of renegotiating the Collective Employment Contract (CCM) in a regime of emergency, cannot be viable and fair to employees in the media. The economic crisis in the media cannot be improved by reducing or suspending the rights won for the entire industry in the six years of media industry level CEC. With respect to the so-called harassment of media institutions by the Labor Inspection, FRJ MediaSind believes that the control institutions of the Ministry of Labor had done their duty when the trade unions found that some employers do not comply with labor laws³⁵¹.”

In January 2011, the Collective Labour Agreement at the level of Mass Media Industry was extended without any changes for two additional years³⁵².

In 2009 and 2010, the Adults’ Professional Training National Board³⁵³ (CNFPA), together with the Media Sector Committee (consisting of the Romanian Federation of Journalists - MediaSind and the Romanian Free Press Employers - ROMEDIA³⁵⁴) promoted and adopted several occupational standards in the media³⁵⁵. Standards are important, because without their existence, evaluation and training centers cannot issue certificates of professional accreditation. These 2010.

³⁵⁰ Ibidem.

³⁵¹ “Romanian Federation of Journalists MediaSind cannot be a part of the killing of journalists’ rights statement” published in the article “MediaSind’s Reaction to the Lamentation of Media Owners”, ReporterVirtual.ro, February 18, 2010.

³⁵² The text of the Agreement and addenda can be found at [www.mediasind.ro / rights-journalists](http://www.mediasind.ro/rights-journalists).

³⁵³ www.cnfpa.ro

³⁵⁴ <http://www.cnfpa.ro/index.php?lang=ro&l=comitete&s=13>

³⁵⁵ According to the MediaSind, said standards are as follows: technical broadcast director, recording technical director, multimedia editor, TV presenter; TV production operator, TV props engineer, desktop publisher, digital and offset print typographer, sound operator, film lighting electrician, press editor proofreader, media print reporter, TV media reporter, radio media reporter, press agency copy editor, media print copy editor, radio media copy editor, TV media copy editor. A list of the occupational standards is available at: <http://so.cnfpa.ro/so/listaSO.pdf>.

documents are necessary to be employed under an individual employment contract in the respective profession.

Copyright

In 2010 the government identified a way to increase taxation, which was intended as a source of attracting contributions to the state budget: additional taxation of revenue from copyright, by requiring beneficiaries of such rights to pay contributions to the Pensions House, the unemployment, the Health Insurance House. The government claimed that copyright was used in the press for tax evasion, namely that it replaced employment contracts.

The practice of using copyright contracts instead of employment contracts is a practice long denounced by trade unions in the media. However, indiscriminate application of this tax policy ignores the fact that most beneficiaries of copyright contracts do not have working relationships with their employers. These beneficiaries include writers, musicians, filmmakers, actors and other categories, including journalists.

Despite protests from media employers, trade unions, journalists and other target groups, new legislation was adopted in June - August 2010³⁵⁶. However, a number of categories were exempted: artists, architects, writers.

Social security contributions shall be calculated differently, depending on the type of income obtained. Thus, in the case of employees receiving salary on a regular basis, based on an individual employment contract, but also obtaining occasional income from copyright, no social security contributions shall be paid. Those who receive a monthly salary, based on an individual employment contract, but also regularly and repeatedly receive income from copyright, will pay the wealth insurance contributions for the additional income, calculated at an amount equivalent to five average gross salaries.

On the other hand, for people who exclusively obtain occasional income from copyright, contributions will be calculated at an annual sum equivalent to five average gross salaries, namely Lei 91 million, for which an adjustment shall

³⁵⁶ Government Emergency no. 58/2010 for the amendment and supplementing of Law no. 571/2003 on the Fiscal Code and other financial-fiscal measures, published in the Official Gazette, Part I, no. 431 of June 28, 2010; Romanian Government Decision no. 791/2010 for the amendment and supplementing of the methodological Norms for the implementing of Law no. 571/2003 on the Fiscal Code, approved by Government Decision no. 44/2004, as well as for the approval of the methodological Norms for the implementing of art. III of Government Emergency Ordinance 58/2010 for the amendment and supplementing of Law no. 571/2003 on the Fiscal Code and other financial-fiscal measures, published in the Official Gazette no. 542 of August 3, 2010.

be made. The same payment system applies to those who repeatedly receive income exclusively from copyright.

The payment of social security contributions, unemployment and health, for the amount of five average salaries is 16.5% of the gross income (less the deduction of 20% under the tax code)³⁵⁷.

To these contributions, one shall add income tax, amounting to 10% of the gross income.

During the first month since its implementing, the system created disarray, queues at the tax offices and confusion among taxpayers about the manner of enforcement of the law. Finally, the Ministry of Finance was able to clarify that the payment of these contributions can be made via the employer.

Also, comparing the Tax Code facilities of the previous years with those provided in 2010, we find that the statutory deduction in previous years was 40% of the gross income, and then became only 20% in 2010.

It should also be noted that there are two kinds of activities that are being taxed:

- for dependent activities (the work technique belongs to the paying company, travel expenses are incurred by the paying company and the employee is in a relationship of subordination), the taxes and fees in this situation are the same as for employees with an employment contract;
- for independent activities³⁵⁸.

Cristi Godinac, president of the most important trade

³⁵⁷ Tax Code ART. 50 - Setting out the net annual income from intellectual property rights:

“(1) The net income from intellectual property rights is determined by subtracting from the gross income the following expenses: a) a deductible expenses equal to 20% of the gross income; b) the mandatory social contributions paid.

³⁵⁸ Tax Code Article 7 - Definitions of common terms:

“(1) For purposes of this Code, except for Title VI, terms and expressions have the following meanings:

activity - any activity undertaken by a person in order to obtain income;
dependent activity - any activity by an individual in an employment relationship;

Any activity may be reconsidered as a dependent activity if it meets at least one of the following criteria:

The income beneficiary is in a relationship of subordination to the payer of income, that the governing bodies of the payer of income, employment and the conditions imposed by it, such as their duties and the fulfillment of their job duties, place of work, work hours;
the provision of business, the income beneficiary only uses the material basis of the payer of income, ie adequate environment, special equipment or protective work, work tools or similar and contributes to physical performance or intellectual ability, not with equity;
the payer of income support in the conduct of business travel interests of the beneficiary's income, such as delegation-deployment allowance at home and abroad, and other expenses of this nature;
the payer of income supports the allowance for annual leave and temporary disability allowance for the beneficiary“.

union of journalists, the Romanian Federation of Journalists - MediaSind, explained the perverse effect this legislation can have, which is that it increases taxes in the media. He showed that if, at the beginning of 2010, 80% of all employees in the media were paid on the basis of individual employment contracts and copyright, and the remaining 20% only via copyright - after the implementing of the new system there is the risk of a reversed situation³⁵⁹. He also explained that as a result, trade unions which defend journalists' rights will lose their most important lever under which they could act, namely the employment contract³⁶⁰.

In turn, employers in the media felt that “this measure, which has minimal effects on the state budget, reaches the endurance limit for the media industry. Additional taxation of journalists' income will result in cost increases, wage cuts and layoffs in the media industry companies, an area which has been in the most difficult situation over the last twenty years and has already gone through a wave of restructuring that affected the entire private sector. The Romanian Press Club and Romanian Press Owners believe that the government is deliberately trying to bankrupt the media industry, through the use of damaging measures, without economic justification, in order to settle scores with some media entities³⁶¹.”

Also since 2010, several journalists have been summoned by ANAF to pay VAT on income from copyright exceeding EUR 35,000. Under the Tax Code, VAT exemption for individuals applies for amounts less than EUR 35,000. Once this threshold is reached, the individual must register as a VAT payer and pay VAT on incomes exceeding that amount.

Many journalists are not aware of this legislation. Thus, although he had submitted - in good faith - all annual income tax statements, it was only at the beginning of 2011 that Ion Cristoiu (a well-known journalist) was ordered by ANAF to pay VAT on income exceeding EUR 35,000, as well as penalties³⁶².

Public Procurement Legislation

In 2009, without public consultation, the Government amended Government Emergency Ordinance no. 34/2006 on the awarding of public procurement contracts, public works concession contracts and services concession contracts³⁶³.

³⁵⁹ “Godinac: Copyright taxation takes our bargaining power away”, StareaPresei.ro, 13 January 2010.

³⁶⁰ Ibidem.

³⁶¹ Press release of CRP and PPR, 1 July 2010, www.clubulromandepresa.ro. The entities covered by CRP and PPR release are Realitatea Media and Intact Group, which, at that time, were under close scrutiny by the National Tax Administration Agency.

³⁶² “How I Evaded Taxes Without Knowing It”, Ion Cristoiu, ReporterVirtual.ro, March 25, 2011.

³⁶³ The ordinance was approved by Law no. 337 of 17.07.2006 published in Official Gazette no. 625 of 20.07.2006 and amended by the Law no.

Thus, purchases of products, services or works could be made directly by a state authority when the purchase price did not exceed the equivalent of EUR 15,000 for each purchase (art. 19). The expense limit, in the version approved following an extensive public consultation started in 2004 and completed in 2006, was EUR 5,000.

Also, the obligation to publish a participation notice and an award notice for media advertising contracts now applies only for the aggregate annual values higher than the equivalent of EUR 20,000 (art. 58). The previous expense limit for the awarding of media advertising contracts without notice was EUR 2,000.

From the media's point of view, the change means that any advertising contract under EUR 15,000 may be directly awarded, and the obligation to publish a participation and award notice in the dedicated system (www.publicitatepublica.ro) only occurs if the contract's value exceeds EUR 20,000. Since state advertising has always been used by state authorities as an instrument of influence and control over the media, this change, made without public consultation, is void³⁶⁴.

In early 2010, the Government adopted a memorandum prohibiting central authorities from purchasing media advertising services over the first six months of 2010. An exception from this prohibition was represented by European programs, the budgets of which mandatorily provided for "advertising" lines.

In 2010, a new emergency ordinance³⁶⁵ helped to change the rules for the awarding of contracts of public procurement of media advertising. Thus, the threshold for publication and award notices was reduced from EUR 20,000 to EUR 15,000. This modification merely corrected, to a certain extent, a regulatory error. Ever since 2009, any contracting authority was obligated to publish these notices in the Electronic Public Procurement System, available at www.e-licitatie.ro, for contracts with estimated values exceeding EUR 20,000. Since 2010, however, the publication of notices for procedures with an estimated value of over EUR 15,000 also became mandatory on www.publicitatepublica.ro.

Also by means of the changes of 2010, the definition of the media advertising contract was narrowed down. Thus, this contract now covers only the "dissemination of advertising or other promotion by means of print, audiovisual or electronic media. In 2009, the media advertising contract was defined as "a service contract the object of which was the creation, production and / or broadcasting of advertising or other forms of promotion by means of print, audiovisual or electronic media".

In addition to Government Emergency Ordinance no. 76, which brought the changes mentioned above, also in 2010 we recorded the repealing of Order no. 183/2006 on the implementing of contract provisions in the media advertising contract. It contained detailed provisions on the selection and qualification criteria of business operators, which the contracting authorities were to use, namely models of invitations and announcements.

The 2010 amendments to the regulations on the procurement of media advertising have an impact on the preparation of award documentation by public authorities and institutions. The most used award criterion is the "lowest price". Reducing the scope of a media advertising contract could limit the practice of "buying news". On the other hand, however, there is a risk of diminishing the amounts intended for the broadcasting, to the detriment of those for creation and production (for example, contracts with 99% of the value for creation and of 1%, or even a bonus, for broadcasting). In this way, public financial resources may be diverted in part through contracts that are exempt from the provisions of current Article 58 of GEO 34/2006, as subsequently amended and supplemented, which requires the publication of a participation notice and of an award notice for contracts of over EUR 15,000.

A report on the impact of legislative changes in the field of public procurement of media advertising will be released by the Centre for Independent Journalism in May 2011.

128/2007; G.E.O. no. 94/2007 published in Official Gazette no. 676 of 10.04.2007, Constitutional Court Decision no. 569/2008 published in the Official Gazette no. 537 of 16.07.2008, G.E.O. no. 143/2008 published in the Official Gazette no. 805 of 12.02.2008, G.E.O. no. 228/2008 published in the Official Gazette no. 05/01/2009 3; G.E.O. no. 19/2009 published in Official Gazette no. 156 of 03.12.2009, G.E.O. no. 72/2009 published in Official Gazette no. 426 of 06.23.2009.

³⁶⁴ See a detailed analysis of public money on advertising in the report "Economic Relations between the media and public authorities" published by the Centre for Independent Journalism, Bucharest, 2010 - www.cji.ro.

³⁶⁵ G.E.O no. 76/2010 published in Official Gazette no. 453 of February 7, 2010.

Conclusions:

- Authorities and politicians in the entire political spectrum continue trying to control and to limit, by means of undemocratic laws, freedom of expression and access to information of public interest.
- De-politicization of public television and radio continue to be merely a declarative intention of politicians, irrespective of their political affiliation.
- Important legislative initiatives are promoted without a prior public consultation. Even when public consultation occurs, authorities often ignore their conclusions and make decisions in disagreement with the requests of their dialogue partners.
- Legislation continues to be interpreted and applied in an uneven manner.
- The High Court of Cassation and Justice decided that articles 205, 206 and 207 of the Penal Code, on insult and libel, are no longer in force.

Recommendations for journalists and editors:

- Read the legislation that affects your professional activity (the penal and civil Codes, the law on access to information of a public interest, audiovisual legislation, the media industry collective employment contract, the copyright law etc.)
- Journalists need to get involved in the monitoring of legislation and in debates with the public and the authorities.
- There must be consolidated reactions of the media community and of the human rights organizations against the undemocratic legislative initiatives.
- Support the self-regulation initiatives, not the initiatives of regulation by means of a media law. Such law is not necessary. The existing legislative framework covers almost all sectors that must be regulated. A media law risks opening the way to abuse and unpermitted restrictions with respect to freedom of expression.
- Publish your statements of assets and liabilities on your own initiative, as part of the self-regulation mechanism.

Recommendations for authorities and politicians:

- Keep the dignitaries' statements of assets and liabilities publicly available.
- Through law and practice, make the manner in which public money is spent transparent.
- Carry out programs of training of the magistrates with respect to the new penal and civil Codes, in order to avoid the random and uneven implementing of the same.
- Comply with the conclusions of public debates.
- Apply the legislation in an even manner, and in accordance with the ECHR jurisprudence and the international treaties to which Romania is a signatory party.

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