

FREEEX

REPORT



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Agenția de Monitorizare a Presei

- Member of the Reporters without Borders Network -

Bucharest  
2010



F R E E X      R E P O R T



**P R E S S**  
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**2 0 0 9**

 **ActiveWatch**  
Agenția de Monitorizare a Presei

- Member of the Reporters without Borders Network -

This report was compiled within the **FreeEx Program of ActiveWatch - the Media Monitoring Agency**. Freedom of Expression Program - **FreeEx** was started by **ActiveWatch - the Media Monitoring Agency** in August 1999, with a view to contribute to the protection and promotion of the right to free expression and to press freedom.

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## Metodology

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.

The present report covers the main events of 2009. The published cases have an illustrative role. We have also introduced in the report cases that are not directly related with the press or the rights of journalists, when we considered that they have relevance for the way in which the freedom of expression and press freedom are perceived in Romania.

This report is not an exhaustive one, but rather is a mirror of events as they came to our attention and as it was possible to be documented.

We divide the infringements against freedom of expression and press 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 unfavourable 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, canceling 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 information:** the refusal of state authorities or relevant institutions to provide information of public interest to journalists, abusive removal of journalists' accreditation;

- **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;

- **Employment conflicts:** violation of the journalist's right as an employee;

- **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, mergers, regulatory framework, financial issues etc.) has an impact upon journalists' freedom of expression and the quality of media products. The infringement upon the ethical norms affects the right to freedom of expression. Thus, FreeEx report includes special sections dedicated to a brief analysis of the media market and to the main deontological problems and the self-regulatory process of the press.

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](http://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.

In many cases presented in this report we were directly informed by the journalists. In case your freedom of expression was violated, write us!



## General context

In 2009, the most important events with an impact over the freedom of speech were the following:

- The economic crisis took to the dismissal of 3.000 journalists, the shutdown of tens of publications and the collapse of the incomes achieved from advertising, which on the whole made mass media vulnerable to the political and economic pressures.

- President Traian Băsescu waged a campaign to discredit the journalists working in large press groups.

- The press groups employers proved to be engaged in supporting one or another of the presidential candidates; they carried their own options in the editorial policies of their newspapers, made obedient persons most publicly visible and appointed such persons in executive positions. Many journalists did not resist the pressure, offered biased reports to the public and, therefore, committed serious ethical deviations.

- Such deviations and the lack of objectivity diminished the public's trust in the press and, in some cases, contributed to the collapse of the press run for certain publications, or even to the shutdown of others.

- The control of politicians over mass-media institutions became powerful again, by means of advertising contracts. Particular cases of purchasing favourable news with public funds were disclosed to the public. This phenomenon was more obvious in the local press, where many of the newspapers that were not shut down due to the economic crisis still depend on the money obtained from such contracts.

- The aggressions and threats addressed to journalists continued, without the responsible people being punished or publicly sanctioned.

- The local authorities restrained the right to hold public meetings and banned events such as exhibitions, concerts and conferences, making value judgments upon them.

- The central authorities promoted several legislative initiatives with a negative impact over the freedom of speech: the new civil and criminal codes, amendments brought to the law on computer delinquency, the law on the retention of the public communications data, the public acquisitions law a.s.o.

- The public television was still vulnerable to political pressures. In 2009, more than ever there have been public alarm signals pointed out by the journalists of the Romanian Television Society (SRTv).

- The journalists were still issued criminal sentences for defamation. The Romanian State lost several cases before ECHR, which involved the journalists' freedom of speech.

- A journalist accused of blackmail was temporarily forbidden to practise his profession.

- Some steps were taken to self-regulate the profession

of journalist, by adopting the Sole Code of Ethics, initiated by the Convention of Media Organizations, and of the Media Committee, initiated by the Romanian Press Club.

The economic crisis and the political campaign made 2009 a difficult year in what concerns the freedom of speech. The advertising market went down and affected half of the budgets allotted to the print press, TV, radio and online. Waves of dismissals, resignations, re-groupings and wage reductions followed it. MediaSind estimates that 4000 journalists lost their jobs in 2009 and at the beginning of 2010 (see the chapter "The Media Market").

Together with the financial crisis, the press also got through an unprecedented crisis of image. The people's trust in the press was impaired by successive political campaigns, when media deviations and abuses came one after another (see the chapter "The Ethics"). Former employers of central newspapers were tape recorded when they seemed to blackmail a high official<sup>1</sup>. One of them described the case as "a banal episode of journalistic investigation". A well-known press man took over a newspaper in full political campaign, censored an article about a friend of his in the very first day of his new position, dismissed the journalists who did not share his political options, and the newspaper received the announcement of shutdown only three days after the elections<sup>2</sup>.

Certain politicians, headed by the President himself, mass media employers who took part in the political campaigns, as well as obedient or unprofessional journalists, also contributed to the disparagement of the press. Subsequently, the Romanians' trust in the most widespread means of information - the television, decreased by 10%<sup>3</sup>, and the print press sales went down to a half<sup>4</sup>.

Older practices of the politicians taking advantage of the financial crisis and making pressures by means of state advertising were reborn. More precisely, the authorities used public funds to promote their image among the contributors. Besides, they granted publicity contracts preferentially to the media institutions belonging to their friends, or which presented them favourably in their pages. If a publication dared become "naughty", it was sanctioned by a contract termination and was laid an embargo with respect to the attainment of public funds. In order to survive in full crisis, many media institutions accepted this bargain. The most vulnerable were to be found in the local press, but there were also particular cases disclosed to the public when favourable news were purchased that involved even ministers and important television channels (see the subchapter "Pressure through the publicity").

1 See the case "Blackmail at the Chairman of ANI (The National Agency for Integrity)".

2 See the case "Nistorescu censors Cotidianul".

3 "Eurobarometer: The Romanians are pessimistic about their economy, quality of life and capacity to get over the crisis", Anne-Marie Blajan, Hotnews, January 25th, 2010.

4 "The Romanian press runs the risk of losing the liberty it won 20 years ago!", MediaSind, November 9th, 2009.

Just like every year, the journalists did not miss the fists, pushes, rape threats, broken cameras and even spits and curses on the field of their activities. In some situations, the aggressions occurred in the very presence of public order agents, who assisted passively at these acts. In one of these cases, the policemen themselves were the people who harassed a journalist, taking him to the police station only for having taken a photograph (see the chapter “Aggressions, threats and insults”).

The local authorities seemed to compete with one another in restraining the freedom of speech (see the chapter “Pressures of the authorities. Political and economic pressures”). A rock concert was banned in Oradea by a liberal local town councillor, who declared he had done that “as an Orthodox Christian citizen of Oradea Municipality<sup>5</sup>”. At Pitești, the National Anticorruption Directorate (DNA) prosecutors accompanied by policemen and special troops ransacked the offices of a daily newspaper and of a television, took the journalists’ computers, pocket books and objects and sealed the server of the printing house. The computers were returned after a month, without hard-disks and without any explanation either.

An almost hilarious situation occurred in Craiova, where mayor Solomon set out three places within the city as “sole and mandatory spaces for the performance of public manifestations”. At the beginning of March 2010, when Solomon was placed under preventive arrest, being investigated for soliciting bribe, falsification of public documents and use of forgery, hundreds of employees of the city hall got out in the streets to declare their support for the mayor. Their manifestation breached exactly the aforementioned order issued by the mayor.

The access to any information of public interest remains questionable, either because the journalists and the citizens do not know to protect their rights adequately, or because there is not a culture of transparency in the state institutions<sup>6</sup>. Few journalists sue the institutions which refuse to give information. And when they do, most of the time they do not benefit from legal expertise, their access to specialized lawyers being limited by the precarious financial resources of the press.

The institutional culture of transparency was vitiated at the highest levels. The management of the Chamber of Deputies avoided giving accreditations to independent journalists, fearing that “hundreds of thousands” of persons would invade their territory. Pressed by the media organizations, the regulations for accreditation were modified. At the same time, an important source of information for the journalists - the Trade Register - made the object of some disputes and attempts of political control (see the chapter “Access to the information of public interest”).

<sup>5</sup> “Dan Octavian cut out a concert at Oradea”, Raluca Avram, Bihoreanul, June 2nd, 2009.

<sup>6</sup> See in the chapter “Access to the information of public interest”, a study conducted by the Institute for Public Policy.

The criminal cases for defamation continued. In many of them, the press won the cases, but even the rare situations when the journalists were criminally sentenced had a negative impact over the freedom of press. In 2009, Romania lost several cases before the European Court of Human Rights, because the domestic law courts outpassed the limits set forth by the Convention and by the case-law in the field of the freedom of speech.

A journalist judged for blackmail without being detained was deprived by the law court of his right to profess and was ordered to delete materials from his own blog until the end of the trial (see the chapter “The insult, the calumny, the right to private life, the interdiction of the right to profess”).

The number of labour cases increased significantly in 2009 and 2010. Royalty agreements were used to blackmail the journalists, by reducing their incomes and by avoiding the observance of the provisions set out in the Collective Labour Agreement at the level of Mass Media Industry. Many journalists led psychological wars with their employers and appealed to law courts, many times successfully, in order to earn their rights (see the chapter “Labour conflicts”).

The public television remained vulnerable at the political pressures. Numerous editorial interferences were noticed, which aimed to promote political interests. The politicization generated even more acute problems to the public television: improvisation, temporariness and de-professionalisation. A political will for de-politicizing and a real reform in the public services of radio and television were practically void. A new initiative to reform the law on the operation of SRR-SRTv (The Romanian Radio Society - The Romanian Television Society) was blocked by most political parties (the Social Democratic Party - PSD, the National Liberal Party - PNL and the Democratic Alliance of the Hungarians in Romania - UDMR), for fear that the managing parties of the two institutions could be dethroned in the electoral year (see the chapter “Public television”).

The new criminal and civil codes were voted hastily, without any real consultation of the public. It is difficult to estimate the consequences that the provisions contained in these codes will have towards the freedom of speech. Both texts introduce limitative dispositions with regard to the infringement of the right to private life. The civil code introduces the possibility to ban a journalistic material temporarily. Both law texts offer fragile protection to the freedom of speech.

The public acquisitions law was amended abusively, setting out lax conditions for the award of advertising contracts financed from public funds. The law on the retention of public communications data is still applicable (see the chapter “Legislation”).

# 1. MEDIA MARKET

## 1.1. GENERAL CONSIDERATIONS

The Romanian media market has undergone dramatic changes during 2009. The most affected was the print press, both locally and nationally. The advertising market has collapsed. The budgets allocated to print media, TV, radio and online have fallen by over 50%. Also, the print press sales decreased by 50%.<sup>1</sup>

The year started with staff, wages and budgets reductions for various media products. This was followed by waves of dismissals, resignations and regroupings. Movements and repositioning are continuing throughout 2010, but a significant number of journalists remain affected. Several traditional newspapers have been closed.

The worst fact is that the owners who purchased these newspapers did not provide the online access to the archives of such newspapers, after their closing. Consequently, the archives containing information and press inquiries, some of them being almost 20 years old, cannot be accessed any longer. It is the case of the Ziu and Gardianul publications and some local newspapers. A general lack of interest for the newspapers' online archive can be detected and each re-launch of an information website sacrifices the archive available up till then.

There is no definite total number of the media sector employees who lost their jobs. However, almost no media institution escaped the downsizing of at least several tens of employees. The restructuring process continued in the beginning of 2010. Cristi Godinac, the president of the Romanian Federation of Journalists - Mediasind, declared for this report that, approximately 3,000 mass-media employees (journalists and technical staff) were laid off, followed by another 1,000 employees in the first months of 2010.

Together with the financial crisis the press is undergoing, an unprecedented image crisis has been recorded, in terms of editorial content and public's confidence. The confidence in press has been affected by the consecutive electoral campaigns where media sideslips and abuses came one after the other. The media organizations reacted through self-regulatory efforts. Among these, there have been appeals, position-takings and adoption of a single code of conduct based on current codes, including the codes of the Convention of Media Organizations (COM) and of the Romanian Press Club (CRP). The Romanian Journalists Association and CRP announced, in late 2009, the establishment of a Media Commission which will judge the deontological violations of the journalists and media companies which are members of these associations.

The economic crisis generated new types of economic relations between politicians (particularly the star-politicians) and media. Concrete cases of buying favourable news with public funds have been disclosed. The length and financial magnitude of this phenomenon are alarming.

New discussions re-emerged about the state involvement in public subsidy of the press which takes various forms.

Pursuant to the Global Barometer of Corruption 2009<sup>2</sup>, elaborated by Transparency International and issued in June, the Romanian mass-media managed to be mentioned for the first time in the most corrupted institutions top. According to this document, this is a consequence of the partisan editorial policies. Hence, the mass-media ranks the fifth, with a 3.4 quota, in the top of the institutions most affected by corruption in 2008, beside the political parties, the legal system, the Parliament, the legal and business environment.

A press article from the same period produces evidence and concludes that the politicians control television stations<sup>3</sup>, in local press, according to the Berlusconi model in Italy. The article refers to 24 counties where the local politicians are involved in press matters.

There have been several local initiatives of direct financial support for the press during the year. The County Council of Cluj announced, in the beginning of the year, an approximately EUR 240,000 financial support package for the local press. Eventually, the subsidy failed to materialize. The last edition of the „Sunday in family” show, produced by Mihaela Radulescu, was supported by approximately EUR 20,000 from the county budget and the budget of the Piatra Neamt city. The local press of Maramures announced that Baia Mare Municipality allocated approximately EUR 15,000, in the late May, for the promotion of city image through a series of events, including an event organized by Money Channel, a TV station of the Realitatea-Catavencu trust (more details in economic pressure chapter).

In 2009, the Mediasind trade union of the journalists requested the Government to immediately initiate discussions with mass-media, in order to identify the measures to be applied in media industry during the crisis period. Mediasind, jointly with an employers' organization - Romedia -, requested a series of gratuities and facilities for the press and journalists in 2009 and 2010. Among the useful requests forwarded in the Romedia-Mediasind document are: VAT payment upon invoice cashing; setting a maximum tariff on distribution of publications for the services provided by the Romanian Post and National Railway Company; financial facilities applied for press distribution; reduction of fees and rents for press distributors; legal norm explicitly specifying the deductibility of expenses related to returned items of printed press; inclusion of specific regulations for journalistic production in the Law no. 8/2006; law amendment in order to grant the Labour Inspection and Parity Commission in mass-media sector with the legal possibility to verify and apply penalties to the press institutions abusing the use of the copyright contracts; guarantee of the journalists' free access to databases of the Trade Register and Official Gazette<sup>4</sup>.

<sup>2</sup> Global Barometer of Corruption, Transparency International, 2009.

<sup>3</sup> “Countryside Moguls: the barons govern the counties holding the remote control”, Dan Duca, Cotidianul, March 16, 2009.

<sup>4</sup> The list was proposed in the beginning of 2009 and reintroduced in 2010. See “SAVE THE PRESS!” CAMPAIGN, February 9, 2010,

www.mediasind.ro. See Ethics Chapter of this report for an analysis of the arguable proposals included in this document.

<sup>1</sup> MediaSind press release „The media in Romania is likely to lose the freedom gained 20 years ago! After 20 years since the Revolution in 1989, the freedom of the press is threatened.”, November 9<sup>th</sup>, 2009.



In reaction to the foregoing issues, several new media products emerged, both printed, but especially online. These are media products generated by journalists' group leaving the traditional newspapers from various reasons. Some publications' ownership was transferred to the journalists or managers.

2010 appears to be a year of stabilization and re-setting. New business models are undertaken, new collaborations between print press, TV and online as well. In case of printed press, the distribution is a major problem. There have been recorded cases of publication censorship, distribution network monopolizing trends, lack of financial transparency and bankruptcy of the main network - Rodipet. The experts consider that a printed media business loses up to 35% of revenues due to non-functional distribution networks.

## 1.2. CASUISTRY

### Media PRO. Intact. Ringier

Pro TV announced, in early 2010, an operational profit (EBITDA, profit before taxes) of 38 million US dollars for 2009, almost 70% lower than the profit of the previous year. The Group laid off 300 employees. The print division which edited a local newspaper network, Publimedia, recorded EUR 300,000 losses and closed down the entire newspapers network in the summer. Such measure was taken after Publimedia had increased the cover price in the beginning of the year. According to the last audit, the company had 390 employees. Hence, one of the national printed press networks disappeared, and the headlines are maintained online. Six major local newspapers have been closed down after nine years of activity. In Cluj and Oradea, the editorial offices chose to continue printing newspapers in the same formula with similar names.

The American Central European Media Enterprises Group (CME) announced last year the agreement signed with MediaPro management for the procurement of MediaPro Entertainment (MPE), through a complex transaction, estimated to 97.6 million US dollars by the American Merrill Lynch Bank. In exchange for the MPE entertainment division, MediaPro CEO, Adrian Sarbu, will receive 10 million USD in cash, 2.2 million of CME shares and he will have the possibility to purchase 850,000 shares more, at the price valid on transaction date. Sarbu remained the owner of 5% of ProTV SA, the remaining of 95% being owned by CME. Adrian Sarbu was appointed as President and CEO of CME.

Last year as well, Time Warner announced that it would invest 241.5 million USD in CME and would receive in exchange 31% of the media group share capital owned by the Ronald Lauder billionaire. CME operates several TV channels in Czech Republic, Romania, Slovakia, Slovenia, Croatia, Ukraine and Bulgaria.

Antena 1, Antena 2 and Antena 3 stations have not declared their 2009 profit. The preceding year was ended with an almost EUR ten million profit. Intact Publishing House, a part of the group of the same name, recorded an EUR 3.3 million loss at the end of the year. Jurnalul National announced in the beginning of the year 20% wage decreases applied to all employees and was compelled to

lay off employees at the end of the year. Gazeta Sporturilor recorded an EUR 60,000 profit.

Ringier began the year with investments: it initiated a media partnership with B1TV, purchased a printing house for 13 million Euros, launched, jointly with Vodafone, website versions for mobile phones, invested in online publication creating a dedicated 100-employee department to this end. Still, in the beginning of the year, Ringier closed down the free daily newspaper named Compact (22 employees). In October, it started reducing the collaboration budgets and gave up the known commentators. Evenimentul Zilei and Capital publications were printed without the special inserts. Ringier made a series of layoffs. This year, Ringier has announced the sale of the two publications' titles to the Paunescu family (the owner of B1 TV). Ringier completed the last balance sheet, made public in the middle of 2009, and recorded an EUR 1.8 million profit.

The media adventure of the two controversial businessmen having legal problems continue. Dinu Patriciu and Sorin Ovidiu Vintu (S.O.V.) have recognized that they are investing in media since 2006<sup>5</sup>. If, in the case of Patriciu, his businesses are known in the case of S.O.V. none of his businesses enabling him to fund public media are public. From their inception, both media trusts have recorded losses of dozens millions euros.

### Realitatea - Cașavencu

Realitatea-Cașavencu Trust defied the crisis in the beginning of the year, reporting salary increases of 11%. In the middle of the year, however, it communicated massive wage reductions, even by 50% - in case of higher wages. During the fall, Realitatea Media owed to the state over EUR 1 million in unpaid taxes. Eventually, the Realitatea bank accounts were seized in early 2010. At that point, the initiation of financial controls was notified and they lasted until the spring 2010 and were completed with a criminal suit<sup>6</sup> of ANAF (National Tax Administration Agency) submitted to DNA (National Anti-Corruption Directorate), for what the control defined as „tax evasion”. In the fall of 2009, it has been found out that the television administration board consisted of trade union leaders from various fields. As from last year's fall until the drafting report, several companies successively filed for group insolvency for unpaid debts. Among them, there were Mediafax and Reuters.

Realitatea sold Romantica television to Chello Zone.

The print division, grouped under Poligraf and Cașavencu companies, was eliminated. Several publications were transferred or sold to the managers. Immediately after the publication of presidential elections' results, the group announced the closing of Cotidianul (established in 1991), Business Standard (established in 2006) and Money Express newspapers.

Two other newspapers, Gardianul and Ziua, within the scope of influence of S.O. Vantu and owned by PSV company - an affiliated partner of Realitatea TV, were also closed

<sup>5</sup> Subsequently, SOV said that he bought Realitatea in 2004, directly on behalf of his children Ioana (then 23 years old) and Ionuț (then 17 years old) - Sorin Ovidiu Vintu: "Not me, but my children are the owners of the Realitatea-Cașavencu Media Trust" for Media Page.

<sup>6</sup> The trade union leaders of Realitatea, at DNA for 6.2 million lei tax evasion, Kamikaze Online, March 31 2010.

down. Initially, Gardianul cut off 20% of salaries, followed by the layoff of 22 persons and then the closing was announced.

Realitatea FM and News In press agency were strongly affected as well. News In was almost eliminated. Catavencu SA Company initiated the legal bankruptcy procedure. All these companies had almost 700 employees in the late 2008, according to the website of Ministry of Finance.

The OTV station (EUR 167,000 losses) entered the scope of influence of S.O.V. The station's licence belongs to OCRAM Television<sup>7</sup>, 20% owned by PSV, the same company which is shareholder of Realitatea TV, Gardianul and Ziua. Together with PSV, there is Sorin Enache, as a minor shareholder, the general manager of Realitatea-Catavencu Trust. OCRAM is recorded by ANAF in distraint procedure for state budget debts of EUR 400,000 (fines, penalties, social insurances, unemployment, health insurance contributions)<sup>8</sup>. OCRAM is involved in tens of lawsuits pending before the courts in relation to the received fines, copyrights and calumny.

### Adevarul Holding

Adevarul Holding recorded EUR 13 million losses in the last year. The total cumulated losses recorded at the Trade Registry are EUR 32 million. The new Trust manager, Peter Imre<sup>9</sup>, declared that the whole investment made by Patriciu in Adevarul Holding amounted up to EUR 100 million (without counting Adevarul de Seara, see final chapter, distribution figures). Patriciu is a member of the National Liberal Party, currently holding no leading position in the party.

The newspaper invested in a distribution network, purchasing the Mediatim company from Timisoara. It also purchased West Tipo International, a printing house, and opened a library chain. Throughout the year, several labour conflicts broke out and were sanctioned by ITM (Territorial Labour Inspectorate) (see Labour conflicts chapter). Despite the fact that the Holding's owner got involved in politics, the Adevarul newspaper did not address any political subject in the second half of the year.

Adevarul was involved in several public conflicts with various rival publications. Summons for plagiarism, competitions, trademark theft were recorded. The scandals involved the Adevarul, Click, Jurnalul National, Cancan and Libertatea newspapers.

Both Realitatea and Adevarul want to expand internationally. S.O.V announced he would invest in Moldavia, Serbia, Hungary and Greece, through Bluelink Comunicazione company from Cyprus. Bluelink established the company ŞTIRI MEDIA GRUP<sup>10</sup> in Chisinau, with a share capital of over EUR 300,000. The investment will amount to EUR 4,5 million, and the Publika TV station started broadcasting in early April 2010. Another company owned by SOV penetrated the French market, in coffee houses and bistros from Paris - this is Monopoly Media<sup>11</sup>, operating the

Zoom Network, a company active in „digital signage”, and content delivery.

Patriciu created a holding, „East European Media”, in order to expand in Europe. Adevarul owns the daily newspaper Blik in Ukraine. The holding is managed by Peter Imre, former Corporate Affairs of Phillip Morris in Romania, who undertook the management of Adevarul Holding shortly after.

### Other companies

Romania Libera underwent several layoff stages, laid off 20 employees, but invested in the newspaper layout redesign signed by Mario Garcia.

The Edipresse group recorded an EUR 400 thousand profit on the magazine sector.

A second major local press network after Publimedia was dissolved. European Media Investment AG sold its shares in the Media Company SA - the editor of Monitorul de Cluj, Monitorul de Sibiu, Monitorul de Medias and Monitorul de Alba publications.

The press distribution businesses faced financial scandals, whose main actor was former state national network, RODIPET. This recorded huge debts at various media institutions.

The Atac, Interesul Public, Gool Sport newspapers - all pertaining to Locic Media Holding - were affected by a strike for non-payment of wages. Several journalists from Gardianul and Ziua brought to trial their employers for the non-payment of wage rights, especially for the non-payment of overtime.

In June, the tabloids CanCan and Ciao were accepted in the Romanian Press Club, an event that determined Cristian Tudor Popescu to return its honour diploma to the Club.<sup>12</sup>

In December, 24 media companies reunited as the Romanian Media Employers (PPR), as a result of the Romanian Press Club's initiative. The companies are 10 TV stations, 6 radio stations and networks, 2 press agencies, 54 newspapers, 67 magazines.

## 1.3. CABLE

The media content cable supply has witnessed a too fast development and a lack of services, especially because of the insufficient number of employees within the departments in charge with technical service. Many clients are giving up cable services or migrating to other companies.

“The total number of subscribers to services of subscription-based broadcasting audiovisual programmes in Romania increased during the first half of 2009 to 5.72 million subscribers, from 5.64 million - at the end of 2008, and, among them, 3.42 million subscribers were using services provided through the cable networks”, according to Catalin Marinescu, the head of telecom arbitration body (ANCOM)<sup>13</sup>. “The number of satellite TV service providers is increasing; the number of cable TV service providers has decreased. Three quarters of the complaints received by

7 “Realitatea and OTV, half-sisters”, Alis Lupu, Evenimentul Zilei, March 12, 2010.

8 According to the ANAF.ro portal, Information on economic agents.

9 Interview given to ReporterVirtual.ro, April 6, 2010 and an interview with Dinu Patriciu given to *Pagina de Media*, April 8, 2010.

10 “From manager position in Vantu empire - to delinquent in Chisinau isolation chamber”, Ştefan Candea, CRJI.org, December 14, 2009.

11 “Monopoly Media Franta”, Zoom.ro.

12 “CT Popescu gives back the diploma of honour from CRP, after Cancan and Ciao were accepted in the Club”, Mediafax.ro, June 19, 2009.

13 “The cable TV industry is stagnating. How strong is the menace of 14 free digital TV programmes?”, Adrian Vasilache, HotNews, November 10<sup>th</sup>, 2009.

ANCOM concern the services provided by cable networks: 39% of such notices concern contract clauses, 24% complaining about technical problems, 20% about installation issues, and 13% of (...) the most discontent are upset because of the invoices or of the invoicing methods”, Marinescu stated at the Cable Communications Convention.

The complete cessation of analogical TV signal broadcasting before January 1<sup>st</sup>, 2012, an obligation assumed by Romania before the European Commission, immediately targets approximately 23% of households (approximately 1.5 million people).

Changes have been noticed on the sports media market - GSP TV remains in alliance with RCS/RDS for the broadcast of football matches of League 1 until 2011. Moreover, RCS/RDS a deschis in plus Digi Sport. GSP și RCS/RDS have invested EUR 85 million in broadcasting rights and have collected during the first year EUR 5-6 million from advertising.

#### 1.4. ADVERTISING

According to Media Fact Book, the advertising market in 2009 was 347 million euros, close to the 2006 level, i.e. less than 40% compared to 2008. The budgets for the print press have decreased even by 50% and recorded only 40 million. TV advertising was 225 million, with over 30% lower than the previous year. Radio advertising was 25 million (from 35 million euros previously). Internet advertising fell to 13 million euros from 16 million last year.

The decrease in the volume of transacted advertising led to the relinquishment to the services of the main advertising sales corporations and to the internalization of such services by the Intact and Realitatea companies.

As a result of that situation, violent attacks occurred between media companies, lawsuits, complaints and criminal inquiries. At the same time, media contests and promotional offers including free books and DVDs became more and more frequent, such initiatives propelling the media product (especially in the written press).

Another noticed phenomenon was the comeback of the press blackmail for advertising. In June, IAA Romania (International Advertising Association Romania) complained of that phenomenon<sup>14</sup>. On the other hand, the editorial offices are launching more and more signals that the buyers of advertising space are exerting pressure on media institutions for the broadcast of unmarked advertising, for the unjustified lowering of the purchase cost for advertising space, or to censor the editorial content.

Under the pressure of the crisis, media institutions have accepted various editorial compromises - for instance, making the first page of the newspaper monochrome, in order to promote a private company (the case of Uniqa Insurance).

#### 1.5. SALES, AUDIENCES, CIRCULATION

No market share for TV market audiences goes beyond 15%. Octav Popescu of Initiative Media<sup>15</sup>: “We cannot speak

of big TV stations in Romania, as long as everyone is under 20 %”.

Among general TV stations, no spectacular evolution was seen. PRO TV remains the leader, with shows such as “State de Romania”, “Dansez pentru tine” etc. The company has announced that it will launch Acasa Clasic, a TV channel dedicated to telenovelas. According to an assessment of the Capital Partners Investment House, after going through a year of crisis, PRO TV is worth over EUR 900 million and Antena 1 - almost EUR 150 million<sup>16</sup>.

Niche channels are expanding and Romanian projects have been started by National Geographic and HBO.

A new news channel emerged during the summer, Vox News, an investment of more than EUR two million, attributed by the press to Paunescu brothers. Most of the stars belonged to B1 TV. However, the company receiving the license, Sport Channel Srl, does not belong to the Paunescu family<sup>17</sup>.

Micula brothers' network renounced to a TV news channel: N24 has changed into a general post (N24Plus).

Authorities got stuck in all sorts of legal problems and the shift from analogue terrestrial television to digital terrestrial television, which should be ready by January 1<sup>st</sup>, 2012, is late (see section on audiovisual legislation in chapter Legislation “). Instead, the TV stations began digital transmission experiments.

A study ordered and funded by the University of Bucharest, for the Faculty of Journalism and Communication Sciences undertaken in March 2009 shows that 55% of rural residents do not know the Internet, 30% do not read the press and 37% do not listen to the radio<sup>18</sup>.

Another study shows that 59% of all children under 14 years get online daily.<sup>19</sup>

The top of the national newspapers has gone through some changes<sup>20</sup>. Click has dethroned Libertatea and became the first, with sales of 215 thousand units per day. Adevarul has almost tripled its sales, holding the first place after the two tabloids, with 110 thousand copies sold. The newspaper of the Patriarchy, Lumina, ranks the 10<sup>th</sup>, with 20 thousand copies sold, much more than the figures of financial newspapers and other newspapers such as Gandul, Ziua, Cotidianul or Curierul National. The total number of the paid central daily newspapers is of almost 1 million copies sold per day.

The national network of Adevarul Holding produces the free paper Adevarul de Seara, with an average distribution of 430 thousand copies per day (only in Bucharest with 128 thousand a day). Adevarul de Seara has 32 local editions and is edited by Media Promovalores that registered losses of EUR 12 million for 2007 and 2008<sup>21</sup>.

16 “How much are Pro TV SA and Antena 1 SA worth? Together, over a billion EUR”, Petrișor Obae, paginademedia.ro, November 25<sup>th</sup>, 2009.

17 “Vox News TV station has received the license from CNA”, Mediafax, August 18<sup>th</sup>, 2009.

18 www.fjsc.ro/cercetare/media\_rural/presa\_rural.doc.

19 „Childhood games were moved from the block in the online environment”, Itsybitsy.ro, April 2009.

20 According to www.brat.ro, sales average for 2009 in comparison with 2008.

21 According to the public reports posted on the website of the Ministry

14 “Taking a stand against incorrect practices in the communications industry”, IAA.ro, June 3<sup>rd</sup>, 2009.

15 “The small screen, between politicization and tabloidization”, Doinel Tronaru, evz.ro, March 21<sup>st</sup>, 2009.

The national Network of Adevărul Holding produces the free newspaper Adevărul de Seară with an average distribution of 430,000 copies per day (only in Bucharest with 128,000 daily). Adevărul de Seară has 32 local editions and is published by Media Promovalores, which registered 12 million euros loss for 2007 and 2008<sup>22</sup>.

The local press sells<sup>23</sup>, on average, 270 thousand copies per day, a 10% decrease as compared to the previous year. Gazeta de Sud remains among the first, with 21 thousand copies sold per day, a 40% decrease in sales compared to the previous year. In the same top, one may notice the presence of Inform Media group, owned by Voralberger Medienhaus from Austria, with 5 of the 38 regional titles audited by BRAT.

In the online area of news websites, there are more than 14 million individual clients, with 167 million posts per month (according to Sati, in December 2009). And local online newspapers have achieved up to 300,000 individual visitors per month. realitatea.net, hotnews.ro și evz.ro rank first in the top of general news websites.

The radio market holds some surprises. At national level, Romania Actualitati and Europa FM rank first, with market shares of 16% and 15 %<sup>24</sup>. In Bucharest, Radio ZU shares the first two places with Romania Actualitati, with market shares of 14% and respectively 12%.

## Conclusions:

- 2009 witnessed a dramatic decrease in the media market.
- Approximately 4,000 employees from mass-media have lost their jobs in 2009 and in the first months of 2010.
- There is a comeback to state dependence and blackmail. The subsidized press is becoming more and more extensive.
- The classic model of media business stands no chance without innovation and investments in quality and transparency.

## Recommendations for media owners:

- Invest in responsible, quality press that puts on the first place the agenda of the citizens and public interest. In the long run, it will bring a bigger profit.
- Maintain accessible the newspaper online archives.

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of Finance.

<sup>22</sup> According to the public reports posted on the website of the Finance Ministry.

<sup>23</sup> According to www.brat.ro, sales average for 2009 in comparison with 2008.

<sup>24</sup> According to the Radio Audience Survey, concluded between January 12<sup>th</sup> - April 12<sup>th</sup> 2009.



## 2. Assaults, threats and insults

During 2009, journalists were victims of assaults, threats and insults coming from various categories, ranging from vendors, policemen, football players and politicians, and culminating even from some guild colleagues. In what follows, we present several such cases.

### Photographers beaten or detained by the police

On February 12<sup>th</sup>, Raluca and Robin Eparu, from the Observatorul Prahovean, were physically and verbally aggressed while they were documenting a stroy on a building in Ploiești, of whose owner, former Police worker Gheorghe Mihai, had demolished a historical monument part and had illegally built nearby a commercial complex. “I couldn’t even take one photo when this individual appeared out of nowhere and, without saying a word, punched me in the cheek. A second individual appeared right away and together they tried to catch me and take me inside a security booth, where they said that they wanted to let the boss know. I tried to speak reasonably to them, but there was no chance and I barely managed to get away. I can’t understand even now what they had against me. I could have been a tourist taking photos in the town because, I repeat, I was on public domain, not on a private property”<sup>1</sup>, Robin Eparu, the photo-reporter of the Observatorul, declared. The two journalists called the Police, but they were aggressed and threatened again, even in the presence of the law-enforcement workers - this time even by the owner, which determined the two to file a penal complaint against the attackers. Contacted by the Media Monitoring Agency, journalist Raluca Eparu said that “so far nothing has been solved” and she has to go again to the police.

The case is not a singular one. In June, journalist Bebe Pitei, from the local newspaper Uups!, was abusively detained for an hour by the Officers of the Constanța Transportation Police Station, while he was taking photos of the institution for a material put together in the port. The Police officers also asked for the intervention of the Romanian Intelligence Service, checked the photo-reporter’s equipment, including the pills he had on him, although the Police section was a location of public interest<sup>2</sup>.

In addition, according to an article published in România Liberă, a young man was caught by police and taken to the police station due to the fact that he photographed two police cars parked in a bus station.<sup>3</sup> Other photographers mentioned in the article declared that are not let to take pictures in the public places by guards, ordinary people or even men of law (which do not know the law).

### TV studio guests swear and spit moderators

On February 13<sup>th</sup>, while live at Sport.ro, former FIFA Agent, Giovanni Becali, threw with the lavalier at moderator Emanuel Terzian (“Manolo”), offended him and

even spat him, during the advertisement break, based on the reason that he had been offended by the latter’s inconvenient questions, referring to the illegal transfers of football players. “You’re a sucker, you’re a sucker that wets his pants. You wet your pants of how smart you are! You’re stupid! You’re so stupid you wet your pants! That’s why everybody takes you as a fool, you stupid! You’re a bum and I can’t sit at the same table with bums! You think you’re so smart that you wet your pants, ha ha, you’re smarter than the Prosecutors! You’re a sucker, go to hell, you stupid!”<sup>4</sup>, Giovanni Becali said to moderator Terzian. As a reaction to those happened, the Media Pro Group announced that Giovanni Becali would no longer be invited to any show of the company<sup>5</sup>, a decision that it maintained up to date.

On September 11<sup>th</sup>, Social Democratic Party Deputy Eugen Nicolicea was invited by moderator Andreea Crețulescu to leave the set of the talk show discussing the new pensions’ law, because he used an inadequate language addressing the journalist. “You defended the corrupted on the blog when I made a draft bill. (...) All of the press commended me except you, who offended me because that’s how your mama raised you”<sup>6</sup>, Nicolicea told to the TV Moderator, reacting to a piece of material published by her a while before. The show was interrupted ten minutes ahead of time because the Deputy refused to leave the set. Realitatea TV station decided not to invite Eugen Nicolicea to any TV debate again<sup>7</sup>.

### Mayors give journalists curses instead of explanations

On August 4<sup>th</sup>, Constanța Mayor, Radu Mazăre, used a hard and not at all academic language regarding the HotNews.ro electronic publication, after a Reporter asked him for details on the way the Mayor had allegedly spent 800,000 Euros from the City Hall’s budget for advertising - a story on which HotNews had prior reported. “Those from HotNews, which are a press institution kissing Băsescu’s ass all day, made a prosecutor-like investigation, without... They made an investigation just like those at the National Integrity Agency, without asking for documents. They made it ill-intended, just like the ones at the National Anticorruption Directorate (DNA). I told them that I knew who they were, that they kissed Băsescu’s ass and I told them that they would kiss my ass, too, for what they were investigating me about. The prosecutor-journalist who kisses Băsescu’s ass made an ill-intended investigation. I told him he would kiss my ass, too”<sup>8</sup>, Radu Mazăre declared.

In July, Târgu-Mureș Mayor, Dorin Florea, got mad after a Realitatea TV Reporter asked him for details regarding the trip of several City Hall employees in Turkey, that was 20,000 Lei. “F...k you! F...k Bakos! Tell him that it’s expensive! Listen here, sonny boy! Stay here or I’ll kick your ass and those like you! Shut the door! I’ve had it already!

4 „Giovanni Becali is Restricted Access to the PRO trust”, Cotidianul, February 15<sup>th</sup>, 2009.

5 “Giovanni Becali Spat Manolo Terzian”, ProSport.ro, February 14<sup>th</sup>, 2009.

6 “TV Circus: Deputy Eugen Nicolicea, Kicked out from Talk Show”, Ionel Dancu, Adevărul, September 12<sup>th</sup>, 2009.

7 “Gardianul, at the Origin of the Scandal between Cretulescu and Nicolicea”, A.M., Gardianul, September 14<sup>th</sup>, 2009.

8 “Radu Mazăre: HotNews Kiss My Ass!”, Attila Biro, HotNews.ro, August 4<sup>th</sup>, 2009.

1 MediaSind Protest, Mediasind.ro, February 16<sup>th</sup> 2009.

2 “Photo-reporter detained by Constanța Police”, Marilena Coman, România Liberă, June 19<sup>th</sup>, 2009.

3 „The photographers, our terrorists”, Vlad Ursulean, România Liberă, March 30<sup>th</sup>, 2009.



Do you come at command? How many times did they go to sibling cities? How many times? Do they pay something or not? Do they pay something or not?! F...k you! What is this? An inquisition? Do you see me going somewhere?!”, said the Mayor, who didn’t know that he was filmed<sup>9</sup>.

### Journalists beaten at the butchery

On April 16<sup>th</sup>, several journalists and inspectors of the National Authority for Consumers’ Protection (NACP) were aggressed during a control at the “Geanina Star” butchery in the Obor Hall, where, according to NACP, it was commercialized three weeks old expired meat. Disturbed by the presence of the video cameras, the seller started to shout, swear and push the journalists accompanying the NACP inspectors, and the workers in the nearby shops came to her “aid”. Reporter Livia Constantin from Prima TV took several punches in her mouth and stomach, and photo-reporter Alex Tudor from Agerpress had his arch broken<sup>10</sup>. “The security workers, instead of appeasing the conflict, helped the aggressors. The Police arrived late and we will file a complaint”<sup>11</sup>, said Paul Anghel, NACP representative<sup>12</sup>.

Contacted by the Media Monitoring Agency, the journalist Livia Constantin said that she initially made a complaint against the attackers, but withdrew it later because it was “too much trouble.” “Unfortunately, I think in 90% of the cases the result is this. Personally, I do not have time to go to police and court”, mentioned the journalist, who also said that she was disappointed by the Romanian bureaucratic system and the slow pace of the justice.

### Mircea Bănescu cursed a reporter, “How well told you my brother!”

In April, a reporter from the Gândul newspaper phoned Mircea Bănescu, President Traian Bănescu’s brother, to offer him the right to reply regarding the accusations launched by the Political Investigations Group, lead by Mugur Ciuvică. According to the accusations, Mircea Bănescu was involved in an association aiming to use agricultural land belonging to the state in order to develop a real-estate business.<sup>13</sup> “Even though I was a sailor, I know all of these tricks. If you want to, you can come here and I’ll teach you how to do them. You either do your job, or you take it up the ass like the others, as my brother told you well”<sup>14</sup>, the President’s brother replied, denying the accusations brought by Ciuvică. Later, Mircea Bănescu apologized, invoking that Mugur Ciuvică had wrongfully accused him on several occasions. “Please excuse me for lighting-up earlier, but my tension increases suddenly only when I hear the name Ciuvică”, he stated. “If I meet Ciuvică, I’ll beat him!”<sup>15</sup> Mircea Bănescu further added.

9 “Irritated by a Question, Târgu-Mureş Mayor Badly Courses a Reporter”, Cotidianul, July 27<sup>th</sup>, 2009.

10 “NACP Inspectors and Accompanying Journalists Beaten in the Obor Hall”, Flaviu Etves, Cotidianul, April 16<sup>th</sup>, 2009.

11 Ibidem.

12 “Fight in the Obor Hall”, Realitatea.net, April 16<sup>th</sup>, 2009.

13 “Mircea Bănescu: ... You Take it Up the Ass like the Others”, Robert Veress, Gandul, April 1<sup>st</sup>, 2009.

14 Ibidem.

15 “Mircea Bănescu: If I Meet Ciuvica, I’ll Beat Him!”, Evenimentul Zilei, April 2<sup>nd</sup>, 2009.

### The Minister of Culture has made a journalist an „idiot” and a „liar”

At the beginning of May, Theodor Paleologu, Minister of Culture and Cults, qualified journalist Bogdan Cristea from the Gândul newspaper as “an idiot and a liar”, on the grounds that the latter had distorted his affirmations. “That Journalist is either an idiot, or ill intended, because out of a two-hour conference he took only 30 seconds, about Brătianu. And he is a liar, too, because he didn’t write what I said, he placed in my mouth a statement I didn’t make”, the Minister said<sup>16</sup>.

### Journalist threatened with rape

On May 29<sup>th</sup>, the Constanța Tribunal issued a 29 days arrest warrant<sup>17</sup> for a man who threatened journalist Olimpia Ceară, from the Liderul de Opinie local newspaper. The journalist had divulged the man’s involvement in the case of illegally obtained driver’s licenses in the Argeş County. Accompanied by three other persons, Arsen Giolacai came to the editorial office where he told the Chief Editor, referring to the journalist: “I won’t kill her. But, if she writes about me any more, I’ll rape her and she might enjoy it”. The threats didn’t end here. The individual also went to the home of the reporter’s parents, where he told them what would happen to their daughter if she continued to write about him: “I’ll break her arms and legs!”<sup>18</sup>

Contacted by the Media Monitoring Agency, Olimpia Ceară said that the file was pending, but one couldn’t know when it would be resolved, as “you know how justice is”. From this incident, the journalist was no longer threatened, according to her mentions.

### Marius Tucă threatened a colleague journalist

In August, the journalist Marius Tucă threatened and cursed a fellow journalist from the Adevărul newspaper, who contacted him by phone to ask him why he had parked on the beach. “You dirt-bag, I’ll remember you! That’s all I had to say, you dirt-bag. I’ll see you around, dirt-bag!”<sup>19</sup> Tucă said.

### Becali cursed journalist Emilia Şercan

On September 14<sup>th</sup>, the politician George Becali cursed the investigative journalist Emilia Şercan who contacted him by telephone to verify an information that she would include in a TV documentary. The journalist informed the president of New Generation Party that there are some inconsistencies in his wealth statement. Thus, although he publicly declared no income, Becali donated to his Party 35,000 lei (an amount not included in the wealth statement.), according to Emilia Şercan. Becali replied that he donated the money from his own account, and he do not want to declare anywhere the money from his accounts. Asked by Emilia Şercan if ANI (National Integrity Agency) has

16 “The Minister of Culture Calls a Gandul Journalist a Cretin and a Liar”, Adrian Popescu & Bogdan Cristea, Gandul, May 3<sup>rd</sup>, 2009.

17 “Arsen Giolacai Stays in Arrest”, Cuget Liber, June 8<sup>th</sup>, 2009.

18 “Arrested after Threatening a Journalist”, Gianina Diaconu, România Liberă, June 1<sup>st</sup>, 2009.

19 “Constanța: Tucă Caught Again with the Car on the Beach”, Bogdan Oprea & Silviu Brumă, Adevărul, August 2<sup>nd</sup>, 2009.

made any notification in this regard, Becali said: “ You and ANI suck my .... ”<sup>20</sup>

### **Football boss Marian Iancu threatened to „destroy” ProSport**

In September, the owner of the Poli Timișoara football team, Marian Iancu, threatened to “destroy” the ProSport newspaper. Iancu refused the journalists from this publication the credentials for the games with Stuttgart and asked them to eliminate “the articles against the interests of FC Timișoara!” Poli Timișoara owner’s pressures appeared as he was displeased by “the way in which ProSport reflects my actions”. “I’m ready for war! It’s about the Banat issue of the newspaper... I couldn’t come to an understanding either with those at the local edition, or those from Bucharest! I don’t know whether the Banat issue will be able to be distributed as it is now”, Marian Iancu declared<sup>21</sup>.

### **Football players aggressive with the press**

In November, the football player Cristian Săpunaru, who was drunk, cursed a journalist in Otopeni airport. As a result, the coach of the Romanian team Răzvan Lucescu has decided to suspend the quarterback for the next two national team matches and fined him with 1,000 euros. “It’s upsetting for me, one has to say stop, things can’t go like this any more, is it not also our fault? Such situations should not ever exist in a national team, I spoke Tuesday with Săpunaru, I said ... Cristi, you play for Porto, and you have a family and must be an example within the national team! He had a dispute with a journalist in Paris as well. Is possible he might not be taken to the national team any more!”<sup>22</sup> said Răzvan Lucescu.

During the same month, Dinamo football players Gabriel Tamaș, Cosmin Moți and Ousmane N’Doye had a conflict with the Click! Paparazzis, at the exit from a Bucharest club. Disturbed by the journalists’ presence, Tamaș and N’Doye started to hit their car, and the altercations continued after N’Doye was followed by the Paparazzis until his home. The Police had to intervene after several cameras were broken, and all those involved went to the Police station to give statements<sup>23</sup>.

### **Conclusions:**

- In many cases, the law enforcement representatives assist in a passive manner to the aggressions against journalists.
- The trials against aggressors progress slowly.
- Many journalists do not go through with complaints against aggressors, citing mostly, the bureaucracy and the slow pace of justice.

### **Recomandations for authorities:**

- The right of the journalists to gather and disseminate information and opinions should not be threatened, restricted or penalized<sup>24</sup>.
- The representatives of law enforcement bodies should ensure the safety of the journalists exercising their profession.
- The aggressions, the threats and the insults of any kind towards the press are unacceptable, especially when coming from the authorities, politicians and other public figures.
- The public opinion should mark the limit and condemn such behaviors against the journalists.

### **Recomandations for journalists:**

- Aggressive people should be sued and put under a public stigmatization.
- Inform the media NGOs in case you are the subject or the victim of an aggression.

<sup>20</sup> „My movie. The first”, Emilia Șercan, blogdeinvestigatii.blogspot.com, November 17<sup>th</sup> 2009.

<sup>21</sup> “Iancu Threatens ProSport”, Matei Udrea, ProSport.ro, September 15<sup>th</sup>, 2009.

<sup>22</sup> „Săpunaru, suspended and fined”, Adrian Ilincescu, HotNews, November 16<sup>th</sup> 2009.

<sup>23</sup> “Gabriel Tamaș, Cosmin Moți and Ousmane N’Doye Fought the Paparazzis”, Adrian Florea, GSP.ro, November 26<sup>th</sup>, 2009.

<sup>24</sup> From the European Charter on Freedom of the Press - www.pressfreedom.eu.

### 3. Pressures from authorities. Political and economic pressures

#### 3.1. PRESSURES FROM AUTHORITIES. POLITICAL PRESSURES

##### Prosecutors of the National Anticorruption Directorate (DNA) seized journalists' computers

On 27 May 2009, prosecutors of DNA Pitești supported by police officers and anti-terrorist squad searched the premises of local daily Top and the location of TV station Argeș TV, and the Top printing house owned by local businessman Cornel Penescu. They seized seven computers, notebooks and journalists' belongings and sealed the printing house's mainframe.

At the time of their raid, prosecutors provided no reason in support of their action. After the raid, the DNA website posted a release reading that the search was part of a larger effort of probing into the corrupt acts in the case of the local businessman Cornel Penescu, held in preventive detention at the time. Contacted by ActiveWatch - Media Monitoring Agency, the Top general manager, Severius Stancu, said that the computers had been returned, no hard disks on them, as late as a month or two after the search, with no explanations provided. "Next day we could hardly release four pages of our newspaper", said Stancu.

##### Journalists abused in the Republic of Moldova

In April, Romanian journalists were victims of multiple abuses by the Moldovan authorities, on the background of the Kishinev dissenting actions that followed the parliamentary elections. During the night between 7 and 8 of April, more than 18 journalists traveling from Romania to Kishinev were halted at the border and told to go back. Authorities failed to give any legal ground for their denying access to journalists, however they invoked reasons such as no written invitation granting access to Moldova, no special medical insurance, no accreditation issued by the Moldovan Ministry of Foreign Affairs or failures of their computer system. Journalists had been assigned by Associated Press, EPA, France Press, Intact Images, NewsIn, Mediafax, Reuters, dailies such as Evenimentul Zilei, Jurnalul National, Ziua and TV stations such as Realitatea TV, according to the monitoring action conducted by Romanian Center for Investigative Journalism<sup>1</sup> and ActiveWatch - Media Monitoring Agency<sup>2</sup>.

On April 8<sup>th</sup> two journalists of the TV station Antena 3 and one of the daily Adevărul were detained overnight on the Kishinev airport, under police supervision. Their passports were confiscated and they were questioned for a couple of hours. They were deported to Romania on April 9<sup>th</sup>. The same day, three members of a Realitatea TV crew (journalist Yevgenyia Kironaki, cameraman Mihai Valentin Buzduga and driver Gabriel Colac) were detained for four

<sup>1</sup> "Abuses of Moldova communists, hushed by the OSCE", Ștefan Căndea & Mircea Toma, Crji.org, 24 April 2009.

<sup>2</sup> "Dissent - 18 journalists denies access at Moldovan border", ActiveWatch.ro, 8 April 2009.

hours and browbeat by police officers with comebacks as "What if we give them two years in prison?" or "Let's shoot them!"<sup>3</sup>.

On April 10<sup>th</sup> Doru Dendiu, TVR correspondent in Kishinev, was held in custody for 6 hours, his mobile phone was confiscated and he was denied access to a lawyer.

The Antena 3 crew, which had been threatened by the Moldovan police and secret services, went to the OSCE mission in the Republic of Moldova for help. Once in the premises, the journalists complained about the violent and abusive behavior of Philip N. Remler, head of the OSCE mission to Moldova. According to the journalists' report, he shouted at them and told them to leave the premises at once or he would call the police. The journalists exited the building and left the country. A OSCE car escorted them to the border.

##### China Embassy had Dalai Lama removed from B1Tv program

TV documentary "CuMinte la Dalai Lama" due to be aired on Sunday 25 January 2009 on TV station B1 TV was dropped from the station's schedule, although it had been intensely promoted the whole previous week. Irina Szazs, documentary producer, said that she was informed that the film had not been aired in the wake of the pressures from the Embassy of China. The embassy officials decline to comment, and Dragoș Marinescu, TV station's general manager, said that the documentary was rescheduled. However, the documentary has not been showed, according to Irina Szazs' declaration to the authors of this report.

The same documentary, made in 2004, has been broadcast in the past years by Antena 3 and TVR 1, as Realitatea TV has broadcast news related to the filmmaker's meeting with the Dalai Lama, the Tibetan spiritual leader. "TVR was faced with problems from the Chinese Embassy", Szazs said. TVR representatives, including Tudor Giurgiu, confirmed that they had received a formal letter before the scheduled airing of the documentary whereby the Chinese Embassy attempted to persuade TVR to cancel the program. Szazs said she had been called by Chinese officials who brutally questioned her on the interview and defied her to attempt entering China again.

##### Censorship on an article about minister Bazac

At the end of March 2009, along with a case submitted to the competent courts by the DNA, related to Cornel Șerban, head of General Division for Intelligence and Domestic Protection (DGIPI), the transcriptions of phone calls attesting of multiple negotiations on illicit lobbyism between Șerban and various individuals was covered by the media.

One of such talks, confirmed by prosecutors, was related to the intended blocking of a negative media coverage on the then Minister of Health, Ion Bazac (the Social Democratic Party - PSD). The recorded phone call took place between Șerban and the Romanian consul in Milan, Tiberiu Dinu. Dinu's wife and Bazac's wife are sisters.

<sup>3</sup> "Mind-blowing remark heard by Realitatea TV journalists in Kishinev custody", Realitatea.net, 10 April 2009.



Bazac was threatened with a media campaign if he was going to carry out his plan and change the management of the Colentina hospital. Bazac's wife went for assistance to her sister, Dinu's wife, a former employee of the Ministry of the Interior. Dinu turned to the DGIPI deputy head, Cornel Șerban, who told him to rest assured: "For now we've stalled the article. It's not going to be published."<sup>4</sup> Shortly after his favor to minister Bazac, Șerban was promoted as head of DGIPI by the then Minister of the Interior Dan Nica (PSD).

By the end of March, Șerban was detained by the DNA together with the head of the operational department of the General Anticorruption Division, Petre Pitcovici, for the acts they had committed prior to taking such offices.

### Blogs censored in editorial offices

In mid-June 2009, three bloggers posted information and evidence revealing that two media groups forbid access from the editorial office computers to their blogs. Access to Reporter Virtual<sup>5</sup> and Cătălin Cocoș' blog<sup>6</sup> was restricted at Adevărul, which fact was admitted by the media company's editorial manager, Adrian Halpert. The third blog, nandos.ro, could not be accessed from the Pro Sport premises. Pro Sport editor-in-chief, Dan Filoti, declined to comment the information covered by the media<sup>7</sup>.

### Commemoration with riot police

On March 3<sup>rd</sup> eight young students in the group "Noii golani" ("New Urchins") presented themselves in front of the building where Ion Iliescu, former president of Romania, was due to celebrate his birthday, lit candles in commemoration of the revolutionaries who died in December 1989, waited for Iliescu and called him "murderer". According to the coverage by Mediafax, individuals from another group that assembled to celebrate former president's birthday, picked a fight with "Noii golani", tore the candles placed by them at the base of a tree, and one of them hit and called an undergraduate names<sup>8</sup>.

Riot policemen stepped in and accused the youths of having organized an unauthorized public meeting. Law no. 60/91 on organization and progress of public meetings stipulates that "the public meetings the purposes of which are cultural and art, sporting, religious, *commemorative* events [...] must not be reported in advance". Two youths were manhandled by riot policemen and taken to a police station. Finally, five of them were given fines of 200 Lei each for breaching the peace. One of them paid the fine, two had them cancelled further to court proceedings, and the remaining cases are pending. Criminal prosecution was initiated against another participant for having carried a 1 m long metal chain, claimed by him to be actually a dressing accessory. In the end criminal charges were dropped.

4 "Camelia Bazac, wife of Minister of Health, met with Cornel Șerban days before his appointment as head of DGIPI", Dan Tapalagă, March 30<sup>th</sup> 2009, Hotnews.ro.

5 Reportervirtual.ro, Tiberiu Lovin.

6 Adevărul employee is subject to an ongoing labor conflict with the trust, see chapter Labor Conflicts.

7 "Three bloggers: Adevărul and Pro Sport block access to blogs", C.M, C.I., Hotnews, June 18<sup>th</sup> 2009.

8 "Iliescu welcomed on birthday with lit candles and named murderer", Mediafax, March 3<sup>rd</sup> 2009.

Although the footage on the incident aired by Mediafax showed Iliescu's supporters rough the "Noii golani", they were let go.

### Rock concert barred in Oradea by local councilman

Sunday 5 July 2009, the concert of Dutch rockers God Dethroned due to take place in an Oradea private club was cancelled further to pressures from local councilman Dan Octavian (the National Liberal Party - PNL). He went to the club personally to pressurize the club owner and make him cancel the show. Octavian denied any involvement by the Local Council, claiming that he succeeded to have the show cancelled as "an Orthodox Christian citizen of the city of Oradea"<sup>9</sup>.

### Convention barred by Onesti PSD mayor

On July 31<sup>st</sup> a convention arranged by the Bacău-based Association for Romanians' Freedom (APLR) at the Radu Rosetti Library in Onești was barred by mayor Emil Lemnar (PSD). The APLR Convention dealt with the book "Biometric Dictatorship" whose authors claim that storage of personal data on microchips is dangerous. APLR had paid in advance 1,100 Lei for the rent of the convention hall.

Two hours before the convention, mayor Lemnar phoned the chief librarian to order the call-off of the event. Later the mayor told the press that he could not agree to the "launch of a pornographic, Iron Guard or Nazi book"<sup>10</sup>. The book was to be launched by father Filotheu Bălan. The organizers and circa 100 attendants decided to move their convention to the nearby park. Shortly afterwards public guards appeared who asked attendants to identify themselves, said they would apply fines and attempted to bring the meeting to an end.

### Mayor Solomon threatens Mircea Dinescu

On 8 November 2009, during an election meeting in the city of Craiova of president contender Traian Băsescu, mayor Antonie Solomon (the Democratic Liberal Party PD-L) threatened publicist Mircea Dinescu, standing guest at the "Tănase și Dinescu" program of Realitatea TV.

Solomon made an onstage statement in front of four thousand people: "Mircea Dinescu must understand that he must show another behavior if he is going to stay in Oltenia [Romanian old province with capital city Craiova]".

### Right to public meeting impaired in Craiova

Based on two orders<sup>11</sup> in September 2009, the said mayor decreed that such locations as the velodrome in the Nicolae Romanescu Park, the esplanade of the Lunca Jiului Park, the platform of the Marin Sorescu National Theater and the patio of the Craiova City Hall were "the sole and obligatory locations for the performance of public manifestations".

At the date of the current writing, mayor Antonie Solomon is still held in preventive custody and investigated for alleged bribery on a continuing basis, intellectual

9 "Dan Octavian axes Oradea rock gig", Raluca Avram, Bihoreanul, June 2<sup>nd</sup> 2009.

10 "Public convention in Onești ended up in turmoil", George Martin, Onestiul.ro, August 4<sup>th</sup> 2009.

11 Order no. 24763/21.09.2009 and Order no. 24925/25.09.2009.

forgery and use of forgery. By the end of March 2010, when Solomon was arrested, thousands of City Hall employees took to the streets to declare their support for the mayor. Their manifestation breached the very orders of the mayor mentioned above.

### Photography exhibition barred by Bucharest City Hall

On October 29<sup>th</sup> 2009, the Tourist Development Department of the Bucharest City Hall issued a negative determination and forbade the organization in Pasajul Universității of a photography exhibition dealing with the destructions in the Old Bucharest.

The exhibition had been masterminded by the Urban Observer of the Architects' Union, who collected photographs under the slogan "Bucharest: chaos and development" as part of a campaign intended to help stop the destruction of the Old Bucharest. However, the Tourist Development Department of the Bucharest City Hall was of the opinion that "such manifestation leads to a negative profile on the Capital City"<sup>12</sup>. The exhibition was moved by organizers to Piața Universității, with the consent of Metrorex, the Bucharest subway operator.

### No room for journalists from "moguls" in the presidential aircraft

In July 2009, journalists of TV stations Realitatea TV, Antena 1 and Antena 3 were no longer admitted to the media group that accompanies the official delegation of Romanian President Traian Băsescu to the Czech Republic, on grounds of lack of any available space in the presidential aircraft. A couple of hours before, president Băsescu had accused the three TV stations for their alleged wheeling and dealing with some politicians using public money. The requirements used for the selection of acceptable journalists were never disclosed. It is not the media entities that pay for their plain tickets, but the Presidential Administration.

### Intact TV stations - again a matter of political protocol

In March 2009, during political negotiations between the Conservative Party (PC) and the Social Democratic Party (PSD), Codruț Șereș, PC secretary general, said that his party had not received 5% of the offices due to them as participants in the government, according to the algorithm agreed in the cooperation protocol of the PSD - PC alliance.

The ensuing political declarations revealed that the Social Democrats would have received the right to be "covered" in the Voiculescu family run Intact media group for the 5% of the offices awarded by virtue of the PC acting as co-governing party with PSD.

### CNA trounces mockery of "Luceafărul"

On January 20<sup>th</sup> media watchdog CNA (National AudioVisual Council of Romania) slapped Radio ZU and Radio 21 with fines of RON 5,000 each, for airing obscene parodies of Mihai Eminescu's poems<sup>13</sup> as part of their programs "Morning ZU" and "Fabrica dementă" ("Wacky Factory").

<sup>12</sup> "Taking stock of the Bucharest damages, in the Universitatii subway station", Catiușa Ivanov, Hotnews.ro, November 4<sup>th</sup> 2009.

<sup>13</sup> CNA Press release, January 20<sup>th</sup> 2009

The Council decided that the profane parodies breached the provisions of the Code for the regulation of the audiovisual content. "The National AudioVisual Council punished the radio station RADIO ZU by a RON 5,000 fine, as in their programs "Morning ZU" broadcast on 12 and 15 January 2009, they aired, at a time accessible to all categories of audience, a farce that used profane language, with obvious sexual connotations, that may adversely affect underage audience"<sup>14</sup>, according to the CNA decision to sanction Radio ZU. "The National AudioVisual Council punished the radio station RADIO 21 by a RON 5,000 fine, as in their morning program "Fabrica Dementă", aired on 15 January 2009, poet Mihai Eminescu's commemoration day, the hosts presented a parodied form of the poem "Luceafărul" having a vulgar content, which infringes on the audiovisual legislation that requires radio stations to air programs while bearing in mind the best interest of the child. Moreover, not only did the licentious version of Eminescu's "Luceafărul" fail to be a form of reflecting cultural diversity, showing reverence to our national identity, but it actually acted as a *belittlement of the cultural values*"<sup>15</sup>, said CNA in its decision to sanction Radio 21.

### CNA forbade "beheading" in munchies commercial

On June 25<sup>th</sup> CNA decided to bar the broadcast of the Gusto munchies commercial before 11:00 pm, claiming it would breach the audiovisual regulations on the protection of underage persons. CNA reviewed the commercial after receiving multiple complaints on its content, and concluded that a beheaded young man having munchies happily is not a picture advisable for minors, as "it promotes a product by using shocking elements that may adversely affect children's mental and psychological development"<sup>16</sup>. Dan Grigore, CNA member, told Hotnews that "if they did it with a lampoon in mind, this is no lampoon. If a parody was attempted, it's a quite unsuccessful as a parody. In my opinion, this video is in consummate bad taste."<sup>17</sup>

## 3.2. PRESSURES BY ADVERTISING

During 2009 there were revealed several cases of public institutions awarding advertising contracts to media companies, while often buying directly or via middlemen favorable news coverage on their activity and about the activity of their managing politician in particular. Some cases were tabled to the National Anticorruption Directorate (DNA) or were investigated by specialist MP commissions.

Because of the existing budgetary restrictions, PM Emil Boc passed a Memorandum in the government meeting of February 17<sup>th</sup> 2010<sup>18</sup> banning any advertising and publicity contracts for 2010, still leaving a loophole for "exceptional situations", with such term going undefined. The Memorandum was circulated nation-wide for notification by Autoritatea Națională pentru Reglementarea și Monitorizarea

<sup>14</sup> CNA Decision no. 35 of 20.01.2009.

<sup>15</sup> CNA Decision no. 36 of 20.01.2009.

<sup>16</sup> CNA Decision no. 709 of 25.06.2009.

<sup>17</sup> "CNA: Beheaded young man in the Gusto Commercial, only after 11:00 am", Attila Biro, Hotnews, July 30<sup>th</sup> 2009.

<sup>18</sup> "Government Memorandum no. 398 of 2010 and notification of the National Authority for Regulation and Monitoring of Public Procurement" - www.anrmap.ro.

Achizițiilor Publice (ANRMAP) [National Authority for Regulation and Monitoring of Public Procurement]. “The Government decided to cancel all ongoing contract awarding procedures (...) dealing with advertising and/or publicity.” Moreover, the Government demands that the initiation of each publicity contract backed by structural funds always require “the prior consent of the Prime Minister” (also see the section on the legislation of public procurement in Chapter “Legislation”).

### Radu Mazăre

Between 2007 and 2009, Constanța City Hall extended next to EUR 2,000,000, on account of seven advertising contracts, to local media businesses owned by mayor’s associates.

By the end of July 2009, HotNews produced an investigation<sup>19</sup> revealing that last year Constanța mayor Radu Mazăre (the Social Democratic Party - PSD) signed two advertising service contracts totaling over EUR 800,000 for a local TV station to air media coverage and news on the City Hall’s activity and in doing so to help maintain a positive profile of the institution. The winning business, Soti Cable Neptun, owns local TV station Neptun TV and is the property of businessmen Sorin Strutinski and Mihail Cârciog, mayor’s business partners in other media company, Conpress Group.

Mazăre had been direct shareholder of Soti Cable Neptun until 2003. The company was also awarded similar contracts by Cernavodă Town Hall (PSD) for EUR 15,000 and by Constanța Local Council (PSD) for EUR 1,000). Soti shareholder Sorin Strutinski said that the contract awarded by Constanța City Hall also includes providers Pro TV, Antena 3 and Realitatea TV. The contracts are published in full by Hotnews<sup>20</sup> and reveal the rates charged per minute of coverage broadcast by Neptun TV and the local stations of Pro TV, Antena 1 and Realitatea TV. Rates range btw EUR 150 and EUR 1,000 per minute, according to the specific airtime and TV station. The higher rates were charged by the direct beneficiary of the contract, Neptun TV. As stipulated by such contract<sup>21</sup>, the broadcasters undertook to air journalistic material, including news coverage, helping advance a positive profile of the City Hall.

The ANI (National Integrity Agency) inspectors and the DNA prosecutors referred the matter to themselves using press coverage and initiated investigations on the said contracts. In October last year, ANRMAP applied a RON 45,000 fine to Constanța City Hall for “breach of the public procurement legislation in the specific case of the [...] advertising contracts”<sup>22</sup>.

A later investigation by HotNews<sup>23</sup> exposed that over the past two years mayor Mazăre used another circa EUR 1

19 “How did Radu Mazăre paid EUR 800,000 of public money to the television of his business partners to buy news and positive image for Constanța city hall”, Attilo Biro, HotNews.ro, July 30<sup>th</sup> 2009.

20 “Radu Mazare pays EUR 1,000 per minute for favorable news, programs and coverage on Constanța City Hall. Maximum response time allowed to TV station: 1 hour” by Attilo Biro, HotNews.ro, November 11<sup>th</sup> 2009.

21 Contract published by Attila Biro, quoted article, Hotnews, November 11<sup>th</sup> 2009.

22 A.N.R.M.A.P Inspection Control.

23 “Five advertising contract awarded by Constanta City Hall to Radu Mazare’s business partners. EUR 1.8 million worth of live news and supportive TV programs”, Attilo Biro, HotNews, August 13<sup>th</sup> 2009.

million of public funds to buy hundreds of news coverage and programs from those same business partners. Five further contracts were entered into by the City Hall and the company Telegraf Advertising, a company owned by the same businessmen. Telegraf Advertising is the former Conpress Construct where Radu Mazăre and Nicușor Constantinescu, chairman of the County Council, were shareholders but retired in 2002.

### Ziua de Constanța, harassed by mayor Mazăre

On April 6<sup>th</sup> 2009, the daily Ziua de Constanța was censored by having access denied to distribution in the system of Conpress Group Srl, the shareholders of which include Radu Mazăre, Constanta mayor and PSD local president, and Nicușor Constantinescu, chairman of the County Council, and PSD local vice-president. Previously Ziua de Constanța has published a number of critical articles about Radu Mazăre. The mayor had been exposed by journalists manipulating Constanța magistrates in 2008 to have a sentence delivered against Feri Predescu, a local journalist that dared criticize him.

Just a couple of months later, by the end of June 2009, Nicușor Constantinescu, chairman of Constanța County Council, signed an address<sup>24</sup> of the PSD Constanța county organization containing actions against Ziua de Constanța. The executive committee of the PSD Constanța county organization council claimed a so-called “vilification campaign” mounted by the local newspaper against PSD. The actions were notified to all PSD representatives holding executive offices in the local public administration and included “banning any local PSD elected representative from awarding advertising contracts to Ziua de Constanța”, “termination of any contract for advertising or publicity of Local Councils”. Also, penalties “as laid down in the PSD statutes” would be enforced against anyone who chose to disregard the demands of that address<sup>25</sup>.

It’s worth mentioning that during the months when the facts above happened, PSD was part of the ruling coalition with PD-L and that Radu Mazăre is no stranger to situations like that. During the ruling years of PSD, Evenimentul Zilei, Academia Cațavencu and the local Constanța edition of Jurnalul Național were the media victims of the abuse, censorship and intimidation mounted by Radu Mazăre and his business partners and party colleagues.

### Monica Iacob-Ridzi

During her short-lived term as head of the Ministry of Youth and Sport (MTS), Monica Iacob Ridzi spent hundreds of thousands of Euro from public funds for promotional news coverage as part of a public event contract.

During her 7-month term of office, Iacob-Ridzi ignited a huge scandal with her promotion-related expenditure including news buying. The case was first covered by Gazeta Sporturilor (GSP) that revealed that two apartment-size companies<sup>26</sup> received EUR 730,000 to

24 Address no. 214/31.07.2009.

25 “Nicușor Constantinescu thwarts Ziua de Constanța”, Manuela Moldoveanu, Ziua de Constanța, August 17<sup>th</sup> 2009.

26 “Money for the image of Ridzi + EBA via Voiculescu”, Mirela Neag, Marius Mărgărit, Cristi Scutariu, Cătălin Tolontan, Gazeta Sporturilor, July



put together public events for the celebration of 2 May - Youth Day. GSP proved that EUR 270,000 of such amount was overspent on media services. No less than 600 pieces of news on the Youth Day events, half of which include Iacob-Ridzi, were aired. A 76.40% of the video footage showcased the former minister and 20% Elena Bănescu, the current president's daughter. CNA (National AudioVisual Council) judged all videos showing Iacob-Ridzi in the publicly funded campaign as actual election promotion videos<sup>27</sup>.

On July 14<sup>th</sup> Iacob-Ridzi resigned as by the end of the month DNA commenced criminal prosecution of the now ex-minister and other persons involved in the 2 Mai affair. Iacob-Ridzi continues to act as Hunedoara deputy.

### Elena Udrea

Similar accusations were directed to Elena Udrea, ministry of tourism. HotNews uncovered seven contracts<sup>28</sup> amounting to EUR 500,000. More than half of them were awarded to Realitatea TV, with a big chunk of the money going to the "All Inclusive" tourism program.

There was media coverage accusing TV stations of airing news shedding positive light on Elena Udrea in the wake of the said advertising contracts. According to monitoring data published by the media, Realitatea TV, with which the ministry produced the tourism program (based on a contract of circa EUR 200,000, incurring a cost of about EUR 2,000 per program)<sup>29</sup>, reportedly broadcast 50 per cent of the whole number of news featuring Elena Udrea, with such news being mostly neutral or positive<sup>30</sup>.

Moreover, talks in the public forum revealed that it is the Ministry of Tourism's common practice to cover journalists' travel expenses (including transport, accommodation and even daily allowances) when they report on minister-organized events taking place abroad. According to the Ministry of Tourism, about 300 journalists traveled on public funds between 2001 and 2009, which resulted in expenses amounting to circa EUR 250,000<sup>31</sup>.

Similar schemes involving public funds were used and resulted in scandals that implicated Eximbank, Ministry of Agriculture, minister of Environment Nicolae Nemirschi, 13<sup>th</sup> 2009.

27 CNA Decision no. 700 of 23.06.2009, challenged by Realitatea Media and re-confirmed under CNA Decision no. 762 of 23.07.2009.

28 "Udrea directed EUR 260,000 to Vantu's Realitatea and a mere EUR 39,000 to Voiculescu's Antena stations" Attila Biro, HotNews, July 22<sup>nd</sup> 2009.

29 "(...) Ministry of Tourism entered into a co-production agreement for the program Realitatea All Inclusive including 98 episodes that covers various destinations in Romania being significant for their natural and anthropic resources. Episodes are 10 minutes long each and are broadcast twice a weekday and rerun in weekends during the interval between 18 May and 30 September 2009. The contract was concluded with SC Realitatea Media SA, for a VAT-inclusive amount of RON 832,167" in the aforementioned "Udrea directed EUR 260,000 to Vantu's Realitatea and a mere EUR 39,000 to Voiculescu's Antena stations", HotNews.ro, July 22<sup>nd</sup> 2009.

30 "During the 9 January - 19 July interval, Elena Udrea's efforts were intensely covered by TV stations, according to a survey conducted by Jurnalul Național after perusing the scripts provided by a media monitoring agency. Realitatea TV broadcast 109 unique news mentioning the name of minister Elena Udrea, including 44 positive, 62 neutrals and only 3 negative materials. Antena 1 aired 34 pieces of news including four positive, eight negative and 22 neutral footages; TVR1 32 news materials accounting for 15% of the total, including six positive, nine negative and 17 neutral materials"; in article "COMMISSION SET UP FOR THE LOOTING IN THE MINISTRY OF TOURISM - Udrea buys political news material", Jurnalul Național, July 23<sup>rd</sup> 2009.

31 See Press Release - "On journalists' travels for the events promoting Romanian tourism during 2001-2009", Ministry of Tourism, Press Office, July 22<sup>nd</sup> 2009.

Ministry of Education and Research etc.

### Pressing on GSP

On 1 October 2009, the contract of sporting journalist Decebal Rădulescu as standing guest of the GSP TV program Contraatac saw an early termination. Program host Costin Ștucan resigned in protest. Both alleged direct and indirect pressures from Dumitru Dragomir, head of Professional Football League (LPF) and a business agreement between Dragomir and the station's managing director, Sabina Petre.

The station's management denied any pressure and said the termination of Rădulescu's contract was based on acts of misconduct. However, the two journalists showed that Sabina Petre and Dumitru Dragomir had a meeting that resulted in the termination of Rădulescu's contract two hours later. Furthermore, the two journalists alleged constant verbal pressures to have them stop criticizing Dumitru Dragomir and Mircea Sandu, president of Romanian Football Federation (FRF) and shut off the presence in their program of Constantin Iacov, a fierce opponent of the two football officials.

Sabina Petre said that Rădulescu and Ștucan had been fined for misconduct with 30% and 10% respectively withheld from their wages. Rădulescu and Ștucan said they were not notified of such new measure, and were assured that the fines would be cancelled at their exit. The two journalists claimed that the pressure lever used by the LPF president was the negotiation of the live transmissions of the Liga I matches 1. Both Petre and Dragomir denied the allegations.

### 3.3. PACT WITH PRESIDENT CONTENDERS

During the election campaign and further to an initiative of the Convention of Media Organizations, nine of the presidential hopefuls signed a Pact for guaranteeing freedom of expression and raising the media responsibility<sup>32</sup>. The candidates, including Traian Bănescu, committed themselves to observe the following principles to support the freedom of press:

- strengthening of enforcement of the law on access to information of public interest, inclusively by guaranteeing and facilitating journalists' and general public's access to the data stored by the Trade Registry;

- ensuring transparency in enforcing the public procurement law, mainly the buying of advertising and mass media products from public funds; amending the law on public radio and television services aimed at ensuring the political independence of the two media institutions and at their operation in compliance with the public interest;

- transposing into a normative instrument of the constitutional regulation concerning the transparency of media companies' financing sources, including the transparency of the ownership structures;

- strengthening the legislation on the prevention of excessive concentration of ownership in mass media, inclusively by measures against cross ownership in order to prevent cartel-like agreements or abuse of a dominant position;

32 "Pact on Guaranteeing the Freedom of expression", ActiveWatch.ro, November 18<sup>th</sup> 2009.

- supporting the media industry by suitable tax policies in order to secure the financial independence of the media companies, as enforced in most of the European Union states;

- elimination of criminal penalties for media tortuous acts;

- President signing the European Charter on Freedom of the Press<sup>33</sup>.

### Conclusions:

- The media image has been aversely affected by unclear financial relations with politicians and state authorities.
- The local authorities have been attempting to forestall the freedom of meeting by designating special locations for meetings and intervening abusively through law enforcement forces. Moreover, such authorities fail to comply with their own decisions to such effect.
- Both local and central authorities heavy-handedly events and information, based on their own value judgments.
- Authorities spend public funds to boost their own profiles to taxpayers. Moreover, they biasedly award advertising contracts to media institutions that are owned by affiliates or shed a favorable light on them in their coverage. If a publication becomes too “audacious”, they see their relevant contracts terminated. To be able to make it during the existing economic downturn, many media institutions agree to such arrangements.
- The distribution of print media remains exposed to acts of obstruction.

### Recommendations for politicians, authorities and business environment:

- Freedom of expression and freedom of the press are vitally important for a democratic society.
- Politicians and authorities are bound to refrain from any acts affecting the freedom of expression. They must support and safeguard it, respect the diversity of opinions in all of its forms.
- Censure/obstruction is under no circumstances acceptable. Guarantees must be in place that journalism is free from any persecution, reprisals and political interference.
- The protection of journalistic sources shall be strictly upheld. Surveillance of, electronic eavesdropping on or searches of newsrooms, private rooms or journalists’ computers with the aim of identifying sources of information or infringing on editorial confidentiality are unacceptable.<sup>34</sup>
- Private companies must respect the independence of the journalistic content. They cannot apply any pressures to have advertising and publicity mixed in any manner with the journalistic content.
- Let media do their job and develop naturally, as you need a professional and reliable channel to transmit your messages.
- Recommendations for journalists:
  - Take firm stands against any interference and attempted pressure. It is to the best interest of and obligation of journalists to expose the case of any pressure directed to the media.
  - Send reports to the media organizations when you are victims of any pressure.
  - Keep in mind that the owner of your employer is not also the owner of your conscience.
  - Challenge the National Audiovisual Council decisions when you find them biased.
  - Covert advertising is detrimental to media as a whole in terms of credibility.

### Recommendations for media owners:

- Investments of tens of millions Euro have been unsuccessful in attempted manipulation and failed to show effectiveness in the election campaigns. Stop making investments in this kind of press, or you will continue to waste money and bring your media business to ruin.

<sup>33</sup> The European Charter on Freedom of the Press - [www.pressfreedom.eu](http://www.pressfreedom.eu).

<sup>34</sup> Extract from the European Charter on Freedom of the Press - [www.pressfreedom.eu](http://www.pressfreedom.eu).



## 4. Access to public information

Real access to public information continues to be a major problem in Romania. The existing legislation is not efficiently, consistently and unitary implemented. The reflex attitude of officials is to treat as secret the information related to the administration of money and public goods. The methods to restrict the access include delays or ignoring the requests or excessive costs. On the other hand, citizens, journalists and NGOs do not know their legal rights, or those who know do not exercise them, because of constant discouragement coming from public officials.

In three different studies published during 2009<sup>1</sup>, the Institute for Public Policy (IPP) states that “only 40% of Romanian citizens have heard of the existence of the law on free access to information of public interest” and only 20% had ever used the provisions of this Act . IPP also mentions that municipalities “do not have the information organized in such a way to offer it to the public in a timely manner. Furthermore, information that should be online could not be found on the websites and “is still extremely difficult and costly to enter into possession of public data on local services.”<sup>2</sup> The outsourcing of public services to private entities seriously affect the access to information because municipalities could not follow the realization of these services<sup>3</sup>. Some municipalities simply ignore requests and even court actions and judgments: “neither law nor respect for the citizen does not seem to matter to some municipalities, as is the case of the Sector 5 in Bucharest”.<sup>4</sup>

A general trend is a decreasing number of lawsuits for refusing to provide access to information but at the same time, the number of lawsuits for failure to meet the deadlines for response and for incomplete answers has increased.<sup>5</sup>

“Although the law on free access to information of public interest requires a separate treatment for the media (who should receive the requested information immediately or within 24 hours<sup>6</sup>), (...) IPP collaborative experiences with journalists revealed that most do not use this instrument because legal provisions are not applied properly. IPP noted after a research at a national level, that municipalities do not take into account the period of 10 days required to communicate if and when they would respond the requests, but relies directly to the 30 days period for a full response.

### Mogoş vs. the autonomous administrations

In January 2007, the investigation journalist Adrian Mogoş made a request according to the law on free access to public information to all autonomous administrations

and commercial companies that operated trams and trolleybuses, seeking evidence related to the purchase of electricity. All have provided the required information, except for three autonomous administrations: R.A. for Public Transport Iaşi, R.A. for Public Transport Braşov and S.C. Trolebuzul S.A. Dumbrava Roşie from Piatra Neamţ. The refusal was explicit, and the motive was that the disclosure of the costs would harm the companies that concluded the commercial contracts. On January 25<sup>th</sup> 2007, the journalist sued these autonomous administrations at the Bucharest Court.

Following the court complaint, during the trial, the director of Piatra Neamţ autonomous administrations provided the information requested.

In almost three years the trial has passed through various phases and judicial instances. The journalist did not have a lawyer and has communicated directly with the courts. On November 3<sup>rd</sup> 2009 the final decision was pronounced - the Timişoara Court of Appeal has dismissed the appeal filed by the journalist, on procedural grounds.

### The accreditation rules of the Chamber of Deputies

On August 20<sup>th</sup> 2009, Emilia Şercan, an independent journalist, has asked the Chamber of Deputies an accreditation as a freelance journalist during the documentation for an investigation-movie about the fortune of the parliament members<sup>7</sup>. The Chamber of Deputies replied stating that “its rules of procedure do not cover the accreditation of freelance journalists.” The official response mentioned that a new regulation would be discussed during a meeting of the Permanent Bureau in September. The minutes of the September<sup>8</sup> discussion show the fear of the politicians with leadership positions within the Chamber of Deputies towards the independent journalists. Both the president of the Chamber, Roberta Anastase, and vice-president, Adrian Năstase, feared that “thousands” of people would invade the Chamber of Deputies under the cover of a freelance journalist. Also, parliament members wish to maintain relations with media institutions and not with independent journalists.

In early 2010, following an open letter of several media organizations<sup>9</sup>, a consultation process on this issue was initiated. One argument discussed was that the press is a dynamic domain, and that both the European Parliament and the White House gives for several years already accreditations to freelance journalists and bloggers<sup>10</sup>. A number of amendments to the Chamber regulation were proposed so that the accreditation to the Chamber of Deputies is permitted also to freelancers. However, the accreditation system remains highly a bureaucratic one; the freelancers should submit three recommendations from three journalists who are members of some professional Romanian media organizations (associations), a professional

1 “An efficient public administration means quality services for citizens”, IPP, July 2009.

Public information, a right not a favor, IPP site, October 2009.

“Transparency of public procurement process within the Romanian public administration: Challenges, obstacles, lessons learned”, IPP, April 2009.

2 Ibidem.

3 “An efficient public administration means quality services for citizens”, site IPP, July 2009.

4 Ibidem.

5 Ibidem.

6 According to art. 8, alin. (5) from the law no. 544/2001 about the free access to information of public interest.

7 “My movie. The first”, Emilia Şercan, emiliasercan.blogspot.com, November 17<sup>th</sup> 2009.

8 Minutes of the meeting of the Permanent Bureau of the Chamber of Deputies from Wednesday, cdep.ro, September 9<sup>th</sup> 2009.

9 “Accreditation to the Chamber of Deputies for freelance journalists - Open letter”, www.activewatch.ro, February 3<sup>rd</sup> 2010.

10 “White House Approves Pass for Blogger”, Katherine Q. Seelye, New York Times, March 7<sup>th</sup> 2005.

portfolio that should include at least six materials broadcasted or published by a media institution in the last 12 months from the application for accreditation time and a statement stating which is the ethics code that is considered. The code had to be attached in a copy corresponding to the original. The new regulation was adopted in March 2010.

### The Trade Register

The Trade Register was once again the subject of disputes and attempts at political control. On November 3<sup>rd</sup> 2009, the Chamber of Deputies approved a legislative proposal to amend and complement the Romanian Chambers of Commerce law and the law on the Trade Register, through which the National Trade Register Office was moved from the Minister of Justice and Citizens' Liberties to the Chambers of Commerce Administration. This decision was part of a long line of attempts to control the information about Romanian companies, ownership, structure and history. The law project had previously been rejected by the Legal Commission for appointments, immunities and validations, had received a negative opinion from the Economic Commission and was rejected by the Senate on October 13<sup>th</sup>.

The civil society has reacted<sup>11</sup>, asking the Ombudsman to challenge the legislative proposal at the Constitutional Court, and the Romanian president not to promulgate the law. In December 10<sup>th</sup> the Constitutional Court has decided by a majority vote, that the law that has passed through the Chamber of Deputies is unconstitutional.<sup>12</sup> It should be noted that by the O.U.G. (Government Emergency Ordinance) no. 82/2007 the acces to information about the address and identity number of members/shareholders/legal representatives of companies registered in Trade Register was eliminated.

In 24 out of the 27 EU Member States, the Trade Register is directly subordinate to the state. Data such as address and ID of the person are available in the European databases. Many of the books with company information are available online for free.

### Conclusions:

- The authorities are not prepared to provide information of public interest and tend to conceal them.
- The authorities are not informed concerning the evolution of the media and are skeptical in the relationship with bloggers and freelancers.

### Recomandations for journalists:

- Exercise your right to request public information. If the authorities violate the law on free access to public information, start legal proceedings and inform media NGO.

### Recomandations for authorities:

- Make the access to information about companies online and free. It is a measure of business environment openness and development and protection of citizens through a proper access to information.
- State or state-controlled institutions shall not hinder the freedom of access of the media and journalists to information. They have a duty to support them in their mandate to provide information.<sup>13</sup>

11 "NGOs: The Status of the National Trade Register Office must respect both the Constitution and Community law", Stiriong.ro, November 6<sup>th</sup> 2009.

12 See The motivation of the court - The decision No.1.636 from December 10<sup>th</sup> 2009 referring to the unconstitutionality of the law amending and supplementing the Romanian Chambers of Commerce law nr.335/2007 and of the law no.26/1990 about the Trade Register, published in the Official Gazette January 20<sup>th</sup> 2010 (M.Of. no 45).

13 Extract from European Charter on Freedom of the Press - [www.pressfreedom.eu](http://www.pressfreedom.eu).

## 5. The insult, the calumny, the right to private life, the interdiction of the right to profess

### Băsescu vs. Cristian Oprea

On January 30<sup>th</sup>, the Bucharest 1<sup>st</sup> Sector court dismissed as unfounded, the judiciary proceeding initiated by President Traian Băsescu against journalist Cristian Oprea, from the newspaper Cotidianul, and against Realitatea-Cațavencu media company, after publishing the article “Traian Băsescu whole denials related to the PDL-PRM [Democratic Liberal Party and Greater Romania Party] barter supervision”. The September 5<sup>th</sup>, 2008 article included a series of value judgments unfavorable to the president. “While the European Court supports almost unlimited the formulation of value judgments, the court could not state that the allegations from the impugned article formulate opinions completely unjustified. There is no true democracy if the individual is unable to freely express ideas and opinions and to receive and disseminate information. In order to have a future life in a democratic society, there should be a free journalism, independent, pluralistic, responsible, one that should be continually protected. Regarding press freedom, it is imperative that those who govern should understand and accept that power can not and should not dictate the media type of information that suits them<sup>1</sup>”, the court reasoned. “The journalists could be irritating, their critical judgments are often annoying and even could be a nuisance, but have the advantage to supply genuine public debates, based on the interaction of free opinions based on information freely obtained and made available to the public<sup>2</sup>”, the court also specified.

### Băsescu vs. Patriciu

On December 2<sup>nd</sup>, chief of state Traian Băsescu sued the business man Dinu Patriciu and the press company Best Media “for lying and for a trick shot”, demanding symbolic damages of 1 Lei. “I am suing Dinu Patriciu and the daily newspaper Gardianul for lying about me in a trick shot. I am doing this because they broadcast this trick shot about me. Above all things, I believe that the press broadcasting this trick shot should basically answer a few questions. Firstly, whether before making this film public, the film was authenticated by the National Institute for Criminological Expertise<sup>3</sup>”, declared Traian Băsescu with regard to a video recording filmed during his presidential campaign in 2004 and made public in 2009, where the President seems to hit a child, a fact also stated in public by Dinu Patriciu. On November 3<sup>rd</sup>, one day after being sued by the President, the business man Dinu Patriciu, in turn, sued the President for calumny - being offended by the President’s words calling him a “liar” and a “man who tricks shots”. “It is probable that the President would like to gain a moral benefit, but I do not think he will have it, because what I saw is true<sup>4</sup>”,

1 “The court: Rulers should not dictate to the press the information they would agree with,” Mediafax.ro, February 26<sup>th</sup> 2009.

2 Ibidem.

3 “Băsescu wants to sue daily newspaper *Gardianul* and Dinu Patriciu”, Mediafax.ro, November 28<sup>th</sup>, 2009.

4 “Patriciu sued Băsescu for one milion Euros moral damages”, R.M.,

declared Dinu Patriciu about the Romanian chief of state.

### Sorin Ovidiu Vîntu vs. Băsescu

On July 9<sup>th</sup> 2009, Sorin Ovidiu Vîntu sued Traian Băsescu with the Bucharest Court, the Civil Section, for his incriminating statement on television channel B1, in the television program “THE GODFATHER”, broadcast on June 16<sup>th</sup> 2009, and demanded damages of one million Euro. Traian Băsescu had claimed that “(...) at the end of Tăriceanu’s Government, Mr. Vîntu managed to lay hands on about 60 million Euro, but let us just hope that the state institutions will recover this money, obtained from an illegal VAT repayment”; “Mr. Vîntu was cautious enough to take more than 60 million Euro obtained in November from an unfair VAT repayment right to Cyprus, and invest it in the media trust Realitatea -Cațavencu, because that is the tribune where I am given lessons every day ... the media trust Realitatea - Cațavencu, where I am given lessons of ethics (...)”.

On August 7<sup>th</sup> 2009, Sorin Ovidiu Vîntu filed the second writ of summons on the name of Traian Băsescu, which was registered also at the Bucharest Court, the Civil Section. This writ of summons referred to other injurious statements of Traian Băsescu, made in the program “Debating the lunchtime news - special edition”, broadcast on Radio România Actualități on July 30<sup>th</sup> 2009.

Traian Băsescu said: “(...) I wonder: why these most honorable journalists of the media trust (Realitatea Cațavencu n.n.) do not bring out every day photos of the poor fellows cheated by FNI, who ask for justice in courts, when they know so well that Vlas was sentenced only for the signatures, while the money of those poor fellows are now at Vîntu’s? (...) using the FNI money, big daddy Vîntu took care of us, and built a television where they could make politics, and tell people who’s good and who’s bad in the Romanian politics (...)”; “there are media trusts such as Realitatea - Cațavencu or Antena 1 that are determined to influence the political decisions (...) and I will begin with Mr. Vîntu’s media trust, is that right? (...)”. Sorin Ovidiu Vintu demanded to the law court damages in the amount of 1 million Euros.

### Dinu Patriciu receives compensations from SRI

On February 9<sup>th</sup> the Bucharest Court of Appeals decided to maintain the lower court decision in the case of the business man Dinu Patriciu who won damages of 50,000 lei, as a result of illegal interception<sup>5</sup> of his telephone by the Romanian Intelligence Service (SRI). Dinu Patriciu sued SRI in February 2006, accusing the institution of infringement to private life, by intercepting his phone “in violation of the Criminal Procedural Code and national security law<sup>6</sup>”.

### Ridzi vs. Chilian

In September, Monica Iacob Ridzi, former Minister of Youth and Sports, sued the singer Florin Chilian for calumny on the basis of Article 206 of the Criminal Code. Minister’s Decision against Chilian came after the artist

HotNews, December 3rd, 2009.

5 “Dinu Patriciu won the case against SRI”, V.M., HotNews, February 9<sup>th</sup> 2009.

6 “Patriciu won the game with SRI”, Evenimentul Zilei, February 9<sup>th</sup> 2009.



has interpreted the parody “Go Ridzi” in a pamphlet show organized by Gazeta Sporturilor and Happy Fish, to mark one week since Monica Iacob Ridzi was charged by the National Anticorruption Directorate with abuse in office, intellectual forgery and forgery use<sup>7</sup>.

### Andreea Marin and Ștefan Bănică jr. vs. Cancan

In the same period, the couple Andreea Marin and Ștefan Bănică jr. won the appeal against the tabloid Cancan, the law court ruling an interdiction for this newspaper to reveal any more images of this family during private activities. At the same time, Andreea and Ștefan Bănică jr. got a court decision meant to bind the tabloid to get out of their website the photos picturing them during a holiday in France, when Andreea Marin Bănică was unaware of being taken photos topless by the paparazzi<sup>8</sup>. “By means of this decision, a monstrous precedent might be created, by which the freedom of the press, which is guaranteed by the Constitution, could be seriously restrained. If this tricky solution will be confirmed in the future, then everybody will be able to limit the freedom of the press to publish photos or, even more seriously, data supposed to prejudice the so-called «private activities». Practically, under the protection of this vague phrase, the journalists might be denied the access even to the information of public interest”, declared the editor in chief of Cancan, Mr. Adrian Artene.

### Mihaela Ghiuca

At the end of 2008, the journalist Mihaela Ghiuca, from local weekly paper Prima Pagină of Valea Jiului, wrote an article about a policeman who took his mistress for a ride by his office car, and Emil Strama, who was a man of the law, sued her for calumny and insult. The journalist won the case, being released from criminal prosecution, and yet, on 2<sup>nd</sup> June 2009, the Public Prosecutor’s Office attached to the Petroșani Law Court issued an urgency ordinance that bound the journalist to pay an administrative fine in the amount of 700 RON. Mihaela Ghiuca appealed this decision, on the ground that “the application of a criminal sanction (the administrative fine) occurred in the absence of any incrimination of the defendant for the denounced deed”.

Mihaela Ghiuca declared, for the Media Monitoring Agency, that her appeal was admitted and, therefore, the annulment of the administrative fine was ordered by the court.

### The Romanian Lottery vs. Radu Moraru

The Romanian Lottery lost, by means of a final and binding decision issued on July 3<sup>rd</sup>, the case filed against Radu Moraru, the producer and host of the television program “The Godfather”, at B1TV, who was requested to pay damages of almost 4 million Lei, the Romanian Lottery claiming that it lost clients and money after a series of broadcasts transmitted in 2006<sup>9</sup>, whereby Moraru launched

certain accusations addressed to the company management and made a series of “uncomfortable” exposures<sup>10</sup>.

### Ciutacu vs. “Nașul” (The Godfather)

On October 14<sup>th</sup>, the journalist Victor Ciutacu, editor in chief of the daily newspaper Jurnalul Național and producer of the television program “Vorbe grele” (Hard words) broadcast on Antena2, filed a legal action against B1TV and the host of the talk-show “Nașul” (The Godfather), Radu Moraru, for the “lying assertions” proliferated about him in this program. “In the television programs broadcast on 7<sup>th</sup> September, 8<sup>th</sup> September, 10<sup>th</sup> September, 14<sup>th</sup> September and 15<sup>th</sup> September, the television channel B1 TV and defendant Radu Moraru, as producer of the television program «Nașul» - undoubtedly launched a press campaign against me, by presenting certain untrue aspects related to my professional activity, which were liable to impair my dignity, disparage me and prejudice my public image”<sup>11</sup>, mentioned Victor Ciutacu in his writ of summons. “My honour, reputation and dignity were directly affected by the aforementioned programs, the prejudice of image being one that persists with time (continuous and impossible to limit it in time) by means of the memory of the people who watched the programs and heard what was said during them”<sup>12</sup>, added Ciutacu.

### LAW CASES AT THE EUROPEAN COURT OF HUMAN RIGHTS

In March, the European Court of Human Rights (ECHR) issued a favorable judgment for the journalist Petre Mihai Băcanu and the newspaper *România Liberă*, which had sued the Romanian State after the domestic law courts had bound them to pay certain criminal fines for calumny, subsequent to having published some investigations about an alleged influence peddling undertaken by Nicolae Văcăroiu for Sorin Ovidiu Vîntu<sup>13</sup>. The materials, brought out in 2001 and 2002, spoke of how the PSD Senator Nicolae Văcăroiu received money from Vîntu’s Bank for Investments and Development, even after the first ceased to occupy the position of bank president. ECHR ordered the Romanian State to pay an indemnity of 8,150 Euro to Petre Mihai Băcanu and to România Liberă. “It is true that the accusations were serious, insofar as they accused Nicolae Văcăroiu of corruption, but the Court noticed that they were based on facts, considering the role played by Văcăroiu in the establishment of this bank, materialized in the contract dated May 24<sup>th</sup> 1999, as well as considering the payment of important amounts of money to the accounts of this bank, which is contrary to Văcăroiu’s affirmations that he had previously broken any relation with this bank”<sup>14</sup>, mentioned the court decision.

On November 24<sup>th</sup>, the European Court of Human Rights (ECHR) found that the national domestic courts did not

7 “Ridzi carry Chilian between calumny and harassment”, Alina Vătăman, Evenimentul Zilei, September 7<sup>th</sup> 2009.

8 “Gândul: Andreea Marin and Ștefan Bănică beat the paparazzi who shot them on the beach”, Mediafax.ro, March 4<sup>th</sup>, 2009.

9 “The Romanian Lottery lost the case against Nașul (The Godfather)”, Silvana Pătrășcanu, Evenimentul Zilei, July 6<sup>th</sup>, 2009.

10 “The Romanian Lottery lost the case in which it demanded damages from Radu Moraru”, Mediafax.ro, July 6<sup>th</sup>, 2009.

11 “Victor Ciutacu sued B1TV and Radu Moraru”, Mediafax.ro, October 15<sup>th</sup>, 2009.

12 “Victor Ciutacu sued Radu Moraru”, Antena2.tv, October 15<sup>th</sup>, 2009.

13 Băcanu and SC R SA against Romania, Decision as of March 3<sup>rd</sup>, 2009, petition no. 4411/04, European Court of Human Rights. See a larger abstract of the case in the database “International Case-Law”, www.activewatch.ro - section FreeEx.

14 Ibidem.

give sufficient and relevant reasons able to justify the intrusion into the claimant's right of free expression, even considering the moderate character of the binding fine<sup>15</sup>. Laurian Ieremeiov, from the newspaper Ziua de Vest of Timișoara, sued the Romanian State after being sentenced by the Timiș Court, by means of a final and binding decision dated 18<sup>th</sup> May 2001, for having published an article. He was sentenced to pay a criminal fine of 50 Lei, moral prejudice of 500 Lei and legal charges of 200 Lei. The Romanian Court had ruled this sentence against Laurian Ieremeiov upon the intimation of a physician, after the journalist had published a material in which he was telling the story of an employee of the hospital where such physician worked, who accused the doctor of sexual harassment. Although he had not mentioned the doctor's name in his article, Ieremeiov published his photo and mentioned that the doctor could not be contacted, to give his story. The court firstly admitted the doctor's indecent behavior towards his female probationers in the hospital, a fact which stirred a debate of public interest and regarded the doctor's public life if we consider a doctor's duties. The article contributed to a public interest debate. Without denying the challenging character of the expressions used, the Court reminded that journalistic freedom involved also resort to certain exaggerations or even provocations. The Court also considered that the publishing of a public person's photograph, in the context of an article telling facts about the public life of the same, could not be deemed as overreaching the limits set forth by the Convention and by the pertinent case-law in the field of the freedom of speech<sup>16</sup>.

At the same time, on November 24<sup>th</sup> the European Court of Human Rights (ECHR) issued a favorable decision for the journalist Laurian Ieremeiov, in another case started by the same against the Romanian State, on the ground that he had been unfairly sanctioned for calumny and insult<sup>17</sup>.

After publishing an article of 2001 in the newspaper Ziua de Vest of Timișoara, where he was accusing the new mayor of Buziaș of having collaborated with the Securitate, Ieremeiov was sued by the mayor, and the Timiș Court sanctioned the journalist for calumny and insult in April 2001. Thus, Ieremeiov was bound, in joint liability with the company editing the newspaper, to pay moral damages of 2,000 Lei, plus the legal charges, in the amount of 500 Lei.

ECHR qualified the decision of the Timiș Court as an intrusion into the claimant's right of free expression, and ordered the cancellation of the criminal sentence. The Court found that the assertions made with regard to the mayor's private life made an issue of public interest, especially if thinking of the importance, in the eyes of the public, of the mayor's past collaboration with former Securitate. Therefore, the press article had contributed to a debate of public interest. The Court found that the statements of the two witnesses before the first court made sufficient base

15 Ieremeiov against Romania (NO. 1), petition no. 75300/01, Decision as of November 24<sup>th</sup>, 2009, European Court of Human Rights. See a larger abstract of the case in the database "International Case-Law", www.activewatch.ro - section FreeEx.

16 Ibidem.

17 Ieremeiov against Romania (no. 2), petition no. 4637/02, Decision as of November 24<sup>th</sup>, 2009, European Court of Human Rights. See a larger abstract of the case in the database "International Case-Law", www.activewatch.ro - section FreeEx.

for facts. Moreover, the Court affirmed that it could not place any importance on the decision of a law court having decided that the claimant was of bad faith, insofar as the trial was unfair and considering also the dubitative style used in the article, as well as the way the mayor's position was presented in the same article.

## INTERDICTION OF THE RIGHT TO PROFESS JOURNALISM

A journalist put on trial without being detained, accused of blackmail, was deprived by the law court of his right to profess journalism and ordered to delete materials from his own blog until the end of the trial.

On June 2<sup>nd</sup> 2009, the journalist Julien Tănasă was framed up by the police, being caught in the act of taking a bribe. As a result, he was detained after being caught when receiving 1,000 Euro from the Chief of Gheorghieni Police. The policeman had previously informed the criminal prosecution bodies that the journalist was blackmailing him, asking him 2,000 Euro not to publish a compromising material about him. The journalist's placement under preventive arrest was subsequently maintained for 45 days<sup>18</sup>.

The Public Prosecutor's Office attached to the Târgu-Mureș Law Court opened a criminal file and started the legal proceedings to put on trial the journalist and another person, for blackmail and use of forgery.

On July 15<sup>th</sup> 2009, the Law Court of Târgu-Mureș ordered that Julien Tănasă would be put on trial without being detained, but with the observance of the following obligations: not to leave town, not to communicate, directly or indirectly with the injured party or with the witnesses, and *not to exert his profession of journalist*<sup>19</sup>.

On the other hand, the journalist claimed that it was not a blackmail situation, but only a commercial transaction, and said that he was the victim of a frame-up staged by corrupt policemen. "A so-called friend of mine, working in the Harghita Police, asked me one day to give him a filmed sequence with the words of another policeman that I had filmed when complaining of the abuses of this friend of mine. At that time, I had a TV production company and I made films, documentaries, broadcasts, etc. [...], which I then used to sell to various television channels of the country (OTV, Realitatea Tv, etc.). This friend of mine and I agreed upon a price, since I suppose I have the right to sell to anybody any material produced by my production

18 "Julien Tănasă, lifted by the policemen", by Raluca Maria Creț, *Punctul*, June 9<sup>th</sup>, 2009; "The Superior Council of Magistracy (CSM) defends the reputation of a prosecutor denigrated on a blog", *Juridice.ro*, February 5<sup>th</sup>, 2010; "An investigation journalist, detained for blackmail", *Ziare.com*, June 3<sup>rd</sup>, 2009.

19 Case file no. 7001/320/2009, Târgu-Mureș Law Court, Decision of the Council Chamber Meeting dated July 15<sup>th</sup>, 2009. The measure is based on article 145 para. 1 index 2 of the Code of Criminal Procedure, which runs that "The legal body which ordered the measure may bind the accused or the defendant that, throughout the application of the obligation not to leave the city, he/she should observe one or more of the following obligations: (...) c) not to draw near the injured person, family members of the same, the person with whom he/she committed the deed, witnesses, experts or other parties set by the legal body, and not to communicate with them, directly or indirectly; (...) e) not to enter the home of the injured party; f) not to exert his/her profession, job or perform the activity in the exertion of which he/she committed the deed".

company. And my so-called friend of the Police sent another policeman to the negotiation. I negotiated with the second the price of the film and the second time when we met, only to finalize a simple commercial transaction (I had already cut the receipts and invoice for the little film I was going to sell), I was taken aback by masked men, in the middle of Mureş Mall, being accused of blackmail. That morning, that sneaking policeman had already filed a complaint with the Prosecutor's Office, together with the summary of our first meeting recording, which apparently incriminated me as a blackmailer", declared Julien Tănasă for the Media Monitoring Agency.

The journalist also said, for ActiveWatch, that "it is an aberration of the Romanian criminal legislation to demand a man not to profess for a year or two when undergoing a trial, until that person has been sentenced by means of a final decision, because such person is left without any income sources and he is finally condemned. If he is condemned, yes, I agree that he should be deprived of any such right, but not before the trial".

In September, the law court was informed that Julien Tănasă continued to write on his blog (julien-tanase.blogspot.com) articles that referred to the chief of police concerned and one of his witnesses. Therefore, on September 24<sup>th</sup>, the Târgu-Mureş Law Court "demanded to defendant Tănasă Julien to delete the articles on his personal blog that were connected to the journalistic activity, until the finalization of the trial (...) "<sup>20</sup>.

Both judge Sonia Deaconescu, Chairman of the Mureş Court, and Monica Liana Constantinescu, prosecutor at the Public Prosecutor's Office attached to the Târgu-Mureş Law Court, filed petitions before the Superior Council of Magistracy (CSM), for the defence of their professional reputation, in the train of certain materials published by Julien Tănasă on his blog. Both petitions were admitted by CSM<sup>21</sup>.

With reference to the decision issued in September, the interdiction to write on a blog and even the legal order to delete anything from the same are still unclear, as it is questionable whether this activity is particularly peculiar to the profession of journalist, whose exertion was temporarily forbidden. The court decision might contradict article 10 of the European Court of Human Rights, insofar as posting on a blog is not something to do with professional journalism, but rather with the right of free expression, which is valid for all citizens.

## Conclusions:

- Criminal penalties for defamation still apply to the journalists.
- The Romanian state has lost several cases at ECHR involving the journalists' freedom of expression.
- There was a court decision to ban a tabloid newspaper from publishing any photos of a couple.
- A trial on the invasion of private life by illegal phone listening done by SRI (Romanian Intelligence Service) was won.
- A journalist accused of blackmail was temporarily taken the right to practice his profession.

## Recommendations for authorities, politicians and citizens:

- Senior officials of the State should refrain from actions in court against journalists, having other means at hand to counter the defamatory information (for example, public speeches, press conferences, etc.).
- If you want to sue journalists and media institutions, respect the right to freedom of expression and do not invoke the criminal code, but the civil one.

## Recommendations for journalists:

- Introduce and defend yourself in court if at trial. Find out about the ECHR case law and use it in court.<sup>22</sup>
- Make a complaint to the ECHR when you are sentenced to a criminal punishment, to pay disproportionate damages or you face any other excessive punishments for damage to the reputation of any person or for breach of private life.

<sup>20</sup> Case file no. 7001/320/2009, Târgu-Mureş Law Court, Public Session as of September 24<sup>th</sup>, 2009.

<sup>21</sup> "CSM defends the reputation of the Chairman of Mureş Law Court", Juridice.ro, November 8<sup>th</sup>, 2009; "CSM defends the reputation of a prosecutor denigrated on a blog", Juridice.ro, February 5<sup>th</sup>, 2010.

<sup>22</sup> "Two useful resources: "The legal guide for the journalists - 3<sup>rd</sup> Edition," published by ActiveWatch - Media Monitoring Agency in 2009 and the online database "International jurisprudence" - www.activewatch.ro .



## 6. Labor disputes. Collective Labor Agreement

During 2009, a Romanian journalist out of twenty was dismissed under the pretext of the economic crisis.<sup>1</sup> MediaSind estimated that in 2009 there were fired approximately 3000 employees from the media (journalists and technical personnel), and in early 2010 there were other 1000.<sup>2</sup> The number of work trials has increased in 2009 and 2010. MediaSind has assisted dozens of journalists working for Cotidianul, Adevărul Holding, Business Standart, Gardianul or Ringier.

Below there are a few cases of disputes involving journalists in order to illustrate the problems they face in exercising their employment rights.

### Cristian Botez vs. Adevărul Holding

In February, special reporter Cristian Botez sued the newspaper Click! (where he had worked for four months), for moral harassment at work, demanding the payment of damages in the amount of 1 RON and the publication of the judgment decision in the newspaper and in the electronic edition of the publication as well as the payment of the court costs. "My moral harassment at work began with the employment date, when I was put to sign two contracts with the same firm, of which the working one, the one that ensures the protection of my legal rights, offered me the less money ", said the journalist, in an action filed at the Bucharest Tribunal, and published on his blog.<sup>3</sup> At the employment date, Cristian Botez was proposed to accept a minimum wage salary (850 Ron gross / 650 lei net) and an agreement on royalties amounting to 2,700 Ron gross (2.511 Ron net). Shortly afterwards, the Human Resources department of the newspaper Click! asked him to complete a "declaration of external cooperation", a form that had to indicate if he is working also elsewhere, whether is a shareholder or manager of any company and what gains has from any other activities and how many hours per week he devotes. "It seemed abnormal to answer these request, primarily because I did not know what kind of external collaborations was about. Then, if I had a <<collaboration>> contract, in any form prior to signing the contract with Click!, I knew that I was not obliged to give such explanations. Furthermore, related to the request to declare <<how much I earn from a different place>>, assumed that if there was any other contract, there was a confidentiality clause related to the income earned", mentioned the journalist in his labor complain made at the court. Suspicious of the legitimacy of this demand and uncertain about what was required, Botez returned the document to the Human Resources department and requested clarifications, which were not given. After a few days, he found on his desk another form, through which he was asked to schedule his vacation for the entire year 2009, according to the following criteria:

Employees are required to schedule and get the annual

1 "Romanian media companies cut 1300-1500 jobs by end of the year", Roxana Ivan, Money.ro, October 20<sup>th</sup> 2009.

2 Cristi Godinac, Mediasind's president declaration, for the present report.

3 "Manifesto for journalists' dignity", Cristian Botez, cristianbotez.wordpress.com, February 10<sup>th</sup> 2009.

leave as follows:

- a. Two days during the winter holidays (December 20<sup>th</sup> to January 5<sup>th</sup>);
- b. During the *low season*, January 1<sup>st</sup> to May 17<sup>th</sup> half of the holiday would be taken;
- c. During the *high season*, May 18<sup>th</sup> to September 20<sup>th</sup> the other half would be taken;
- d. During Sept 21<sup>st</sup> to Dec 1<sup>st</sup> leaves will be granted only to newcomers in the company that should make the holidays they are entitled till the end of the year, but respecting the first point;
- e. Between 1-19 December no holiday is approved.

The employee may schedule and take the annual leave in slot periods not exceeding 10 continuous working days. The employee can not split the leave into periods of less than 3 days.

You should also know that not taken vacation days in a calendar year, are not reported to the next year and will not be paid. Each department head has received a list with the number of days of leaves entitled for the department employees and should fill the vacation planning table"<sup>4</sup> Noticing that the request was contrary to the law, journalist Cristian Botez addressed the coordinator Cristina Marcu, from the Investigations Department who told him that "these are the rules for everyone and everyone is the same." "Beyond the fact that the request was formulated contrary to the Labor Code, it was unacceptable for me with 24 years of service of which 18 in the press, to be treated in this way," Botez also wrote in the appeal brought to the court. "These are the rules of the company. How do you schedule your leave, it remains set in stone. We were in court with such problems"- is the response received from the Human Resources department, who refuses the leave proposed by the journalist as it did not comply with the "rules".

A few days after he sent the leave selection by snail-mail, with return receipt, journalist Cristian Botez was called to a discussion with the editorial director Adrian Halpert and with the director of the media group Adevărul Holding (Click! publication is owned by it), Razvan Cornețeanu. "How do you think the company can work with someone who sends such notifications?" said the latter to Botez. Cornețeanu also called Botez as "strange" and asked him rhetorically what would happen if all employees would react like him. "I answered that I can't accept illegal decisions related to the labor code and I can't accept to be a journalist only beyond the company door, and have no dignity in the editorial office", told the journalist on his blog. In response, Cornețeanu suggested to mutually conclude the cooperation, but the journalist refused - at which point Cornețeanu decided to interrupt the copyright contract and to force him to work for a minimum economy wage. According to the journalist, the director of the trust warned him that "if he would not resign, which is unlikely, after a while the post would be restructured"<sup>5</sup>. "I realized instantly that I was the real victim of a blackmail instrument, the copyright contract", the journalist wrote in the document filed in court and published also on his

4 Ibidem.

5 Ibidem.

blog. One week after refusing to sign that he was aware of the termination of the copyright contract, Botez was declared missing during one working day, although, as he told, was working outside the editorial office. At the end of January, he was called to take his salary from the cashier and received the amount of 219 lei, specifying that the rest of 491 lei were taken for “overruns of the mobile service subscription for the months of December and January” - it was the final drop that determined Cristian Botez to resign and take action in court against the publication.

Contacted by the Media Monitoring Agency, Cristi Botez said that the case is ongoing. The journalist wanted to indicate that he do not want to work any more based on a record of employment in an editorial office and that he prefers the freelancing alternative because he does not care about retirement and wants an unpredictable and spontaneous lifestyle.

### Cătălin Cocoș vs. Adevărul Holding

In June, journalist Cătălin Cocoș wrote on his blog that he is subject to different pressures in the editorial office, after he refused to write a “requested” material about the conflict between Adevărul and Intact: “I refused to enter in the dirt between Adevărul and Intact and I got fined! Yes, from Adevărul, not from Gardianul or who knows what other dirty newspaper. Well, since then the circus began. Managers did not even want to give me a copy of the sanctions, and when they heard that I am a member of the union, basically went berserk”<sup>6</sup>.

“My problems started on May 22<sup>nd</sup>, 2009, when I had a conversation with Grigore Cartianu, editor in chief at Adevărul. He accused me that I haven’t written a defamatory article about Gazeta Sporturilor to condemn the newspaper for not offering the prize of one million euros, following a campaign that ended at that date. How Cartianu wanted to put the issue was incorrect, it actually recognized that, but also <<explained>> me why the article should be written: <<Because we (through the newspaper Click!) gave a prize of one million euros and we should stick to the fact that we have kept our word while Intact trust (that has Gazeta Sporturilor) did not>>. In fact, according to Gazeta Sporturilor’s competition regulations the finalist could have won a million, but the award was not guaranteed. I told Cartianu that I don’t find fair and ethical his approach and that I do not agree to write in this way. In the Collective Labor Agreement there is a conscience clause that allows me to refuse to write an article if I think is unethical, a fact that was unacceptable for Cartianu. He threatened me that I would be sanctioned in writing, which happened. In the next two or three weeks I received two fines of 100 Lei and two written penalties and I have signed the internal documents, I have mentioned, that I am aware of, but did not agree with the penalties. Eventually, they did not take money from my salary. Perhaps they did not want to provide evidences of their conduct,” has told Cătălin Cocoș to the authors of this report.

The journalist said that in the next period he had several discussions with Răzvan Cornețeanu, Adrian Halpert, Adriana

Halpert, Lucian Pop, Grigore Cartianu and Alex Revega (who held various senior positions at Adevărul), and they would have threatened with the disciplinary committee and with the termination of the contract on disciplinary grounds and would have asked Cocoș to resign or to accept the separation - proposals which he refused. Moreover, Cocoș reported in other posts on his blog, that following the previously published post, the computer and other staff from his desk were taken <sup>7</sup> and a few days later, his e-mail was deactivated as well as his mobile subscription from work.<sup>8</sup> After the executives of Adevărul refused to receive the notifications of the journalist, Cătălin Cocoș sent the notifications related to his email and phone subscription by snail mail, with return receipt, and informed the Labour Inspectorate about the discriminatory treatment that he had to face.

Cătălin Cocoș decided to sue the publication for its employee rights, and after the first term of the process, his position has been restructured<sup>9</sup>. The job restructuring came after nearly seven months, a time when the journalist was moved in various locations within the editorial office “hall” of Adevărul. Despite all obstacles, Cocoș was able to determine his employer to pay the seniority and loyalty increments and to mention a part of these on the record of employment<sup>10</sup>. Moreover, following the referral made to the Territorial Labor Inspectorate and the visit done by the institution’s employees to Adevărul Holding the bonuses of all employees were put on the record of employment. “I never asked an eight hours working time in the press, this would be absurd. By the nature of the job this is not possible. I asked only to be paid the overtimes, the Saturdays, the Sundays and the holidays worked and, first and foremost RESPECT for the employees. This seems the most difficult thing to obtain,”<sup>11</sup> the journalist wrote on his blog.

Contacted by the Media Monitoring Agency, Cătălin Cocoș reported that the lawsuit against Adevărul Holding was pending. The journalist asked for the granting of a seniority and loyalty increment as well as for moral damages and the re-employment (his contract with Adevărul expired in January 2010).

### Alina Mirea vs. Adevărul Holding

In September, the journalist Alina Mirea, editor in chief of Adevărul de Seară of Craiova, a member of the Union of Professional Journalists, called for the support of the organization<sup>12</sup>, after being fired abusively by the holding owned by Dinu Patriciu and run by Răzvan Cornețeanu, while she was on a medical leave, hospitalized for a surgical intervention. After the failure of the attempt to settle the dispute out of court, the Romanian Federation of Journalists filed an intimation at the Territorial Labour Inspectorate, whereby the following mention was made: “On 4 September 2009, by means of note no. 130, Mr. Răzvan Cătălin Cornețeanu, as Managing Director, was

7 “War Diary”, Cătălin Cocoș, ibidem, June 18<sup>th</sup> 2009.

8 “Deaf-mute journalism”, Cătălin Cocoș, ibidem, July 2<sup>nd</sup> 2009.

9 “We started the roller”, ibidem, December 16<sup>th</sup> 2009.

10 “Increases to the whole neighborhood”, ibidem, January 7<sup>th</sup> 2010.

11 Ibidem.

12 “Adevărul facing a new labour conflict”, Tiberiu Lovin, Reportervirtual.ro, 2009.

6 “To the comemoration”, Cătălin Cocoș, catalink-mediablog.blogspot.com, June 16<sup>th</sup> 2009.



notified that Mrs. Ana Alina Mirea was a member of the Union of Professional Journalists and of the International Federation of Journalists, as per international press card no. R1121/28.08.2009. At the same time, a request was made that, within 5 calendar days as from the receipt of such notice, the said director should pay up to date all the rights set forth in the Collective Labour Agreement at the level of Mass-media Industry, plus in the addenda nos. 1, 2 and 3 (such as seniority pay, stability pay, special conditions, overtime, off-day work and working hours on legal holidays, etc.). Instead of a favourable answer to this notice, the managing parties of S.C. Adevărul tried to harass our union member, terminated her Royalty Agreement, suspended her Individual Employment Contract registered with the Territorial Labour Inspectorate of Bucharest under no. 267/KI/19 January 2009 and, in the end, terminated her individual employment contract abusively, by means of the Dismissal Decision no. 346/19.10.2009, made on <<serious disciplinary grounds>> regarding <<the commitment of prejudicing activities to the employer, insubordination, negligence, repeated infringement of the duty obligations>>”<sup>13</sup>.

### Cezar Ion vs. TVR

In January, the Bucharest Tribunal issued a favourable judgment to the journalist Cezar Ion, former Head of the Editorial Production Department of the Romanian Television (TVR), “dismissed abusively and illegally from his position”<sup>14</sup> in September 2008. The law court ordered the reinstatement of Cezar Ion to the managing position, ordered that the public television channel should pay to the claimant the wages for the missed restructuring period, and the legal charges, as well. The TVR representatives mentioned that they would file for appeal. In April, Cezar Ion filed for another legal action against TVR, accusing it of the “criminal” interpretation of the previous court judgment. The aforementioned decision had to be applied irrespective whether TVR appealed the decision of the Bucharest Tribunal or not. In June 2009, the Court of Appeal ruled again in favour of the said journalist<sup>15</sup> in the appeal filed by TVR, the law court emphasizing once again the obligativity of the claimant’s reinstatement to the position. In February 2010, during the second trial, at the final hearing of the first trial phase, TVR proposed to journalist Cezar Ion the settlement of all their disputes amicably, respectively by means of concluding a legal transaction. The terms proposed by TVR were the “reinstatement to a managing position with identical title and the payment of all the salary rights and other indemnities, calculated as from the first illegal termination of the contract (September 2008) and until the date of the actual reinstatement”. At present, the parties are finalizing the calculation of the accrued indemnities. Cezar Ion declared, for the Media Monitoring Agency, that the new position, although with an identical title, is practically deprived of any rights of editorial control.

<sup>13</sup> “Adevărul and the illegal dismissals”, Tiberiu Lovin, Reportervirtual.ro, November 2<sup>nd</sup>, 2009.

<sup>14</sup> “Cezar Ion won the case against TVR. The public television appeals the decision”, Alexandra Bădicioiu, Cotidianul, January 15<sup>th</sup>, 2009.

<sup>15</sup> See more details about the Ion case in chapter “Public Television” of this report, and in the homonymous chapter of the report “Freedom of the press in Romania - 2008” - www.activewatch.ro.

### Rodica Culcer vs. TVR

Rodica Culcer sued the Romanian Television Society (SRTV) once again on March 23<sup>rd</sup><sup>16</sup>, after the denial of her first complaint, and demanded to be reintegrated to the former position of Head of the News Department, with the full power of the relevant duties, which had been withdrawn to her in October 2007, when the SRTV management decided to restructure the News Department and to appoint Rodica Culcer in the position of Head of the new established Division of News and Sport. Culcer claimed that her restructuring was a “political sanction”, since it occurred after she had decided to make public certain tape recordings indicating Decebal Traian Remeș, the Minister of Agriculture at that time, as corrupt. “All this reorganization was made only to put me away from the News. It is a punishment for the Remeș - Mureșan episode”<sup>17</sup>, declared Culcer. On the other hand, the Managing Board of TVR mentioned that the main reason for the News reorganizations was the “unjustified consumption of the resources, correlated with a decrease of the audience and of the editorial quality of the programmes”<sup>18</sup>. TVR won the case against Rodica Culcer in March 2010.

### Adriana Vitan vs. TVR

On 24<sup>th</sup> June, the Cluj Court of Appeal ruled in favour of the journalist Adriana Vitan, who, in 2008, questioned in court the organization of a promotion job contest within Cluj TVR, following of which two employees were promoted illegally. Adriana Vitan claimed that the promoting/employing commission was made of fellow mates and family friends of one candidate, which was deemed an obstacle in their taking the right decision. “First of all, we do not know what kind of contest it was: promotion or employment? The tryout was not conducted under the law and according to the collective labour agreement, because this job contest required, apart from high education and experience in television, also sound knowledge of the Romanian language; or Karen Sebesi is a graduate of a faculty in Hungarian language. On the other hand, an incompatibility with the collective labour agreement is that Karen Sebesi is involved in politics, being a member of the Managing Board of the Romanian Radio Broadcasting Company on behalf of UDMR”<sup>19</sup>, said Adriana Vitan about one of the candidates. The law court ordered the annulment of the job contest organized by TVR Cluj and the termination of the work contracts for the two employees illegally promoted<sup>20</sup>. On the other hand, Karen Sebesi answered that Adriana Vitan’s accusations were groundless. “My participation at the job contest that I won last year, together with my colleague, Dan Păvăloiu, was not forbidden in any way to citizens of non-Romanian ethnic origin. I am a graduate of an Institute of theatre

<sup>16</sup> “Rodica Culcer sues TVR once more”, Mediafax.ro, March 25<sup>th</sup>, 2009.

<sup>17</sup> “Culcer sues TVR once again”, Andreea Pora, HotNews, January 11<sup>th</sup>, 2008.

<sup>18</sup> “TVR: Rodica Culcer is not going back to the News Department”, C.M., HotNews, February 26<sup>th</sup>, 2009. See more about the Culcer case also in the TVR chapter of this report and in the homonymous chapter of the report “Freedom of the press in Romania - 2008” - www.activewatch.ro.

<sup>19</sup> “A job contest at TVR Cluj, annulled in the court”, Mihai Șoica, Evenimentul Zilei, June 25<sup>th</sup>, 2009.

<sup>20</sup> “The Court of Appeal annulled a job contest organized by TVR Cluj”, Tudor Ravoiu, CityNews.ro, June 25<sup>th</sup>, 2009.

in the Hungarian language, which does not imply that I do not have sound knowledge of the Romanian language; I am a Romanian citizen, and have hundreds of broadcasts and columns made in Romanian”<sup>21</sup>, mentioned Sebesi.

Adriana Vitan declared, for the Media Monitoring Agency, that meanwhile she entered with the law court a stay of execution regarding the reorganization of the same job contest, ordered by the TVR Cluj management after the enforcement of the first civil judgment. “This reorganization was also performed with irregularities. There have been, and still are committed abuses. That civil judgment was not actually enforced!”, stated the journalist Adriana Vitan.

### Lucian Ionică vs. TVR

Lucian Ionică is another journalist who summoned SRTV, after being recalled from the position of manager of the Territorial Studio of TVR Timișoara. In a memoir submitted with the Parliament in June 2009, Lucian Ionică accused the fact that the Chairman-Managing Director of the Romanian Television Society, Alexandru Sassu, together with a series of members of the Managing Board of the Romanian Television Society, attempted, in an “abusive way”, to recall him from the position of manager of the Territorial Studio of TVR Timișoara. The dismissal occurred in July 2009, becoming applicable in August. The decision of dismissal was made by a commission made up of Sorin Burtea, Radu Toma and Dida Drăgan, as members of the Managing Board of SRTV, and Anca Antonov, as observer, in her capacity of representative of the trade union (which union was in a conflict with Lucian Ionică). Lucian Ionică told that he had to sit for a written exam with theoretical questions of management, although he had not been announced about that, had not been communicated any bibliography and had already worked as a manager of TVR Timișoara for 5 years, and as an editor in chief for another 6 years. Although dismissed from his position, he was proposed to take over other jobs involving managerial experience, respectively one as management counsellor. Lucian Ionică refused and filed a legal action against SRTV, based on the provisions of the Labour Code. At the time of drawing up this report, the case was still pending with the law courts. Lucian Ionică has not received any answer to the memoir submitted with the Parliament.

### Luana Mureșan vs. Ringier

In February, the former editor in chief of the magazine Unica, Luana Mureșan, won the case against the press company Ringier, which had fired her in 2008, when she was on maternity leave<sup>22</sup>. In this case, the court ordered Ringier to pay damages amounting to 50,000 Lei to Luana Mureșan and to reinstate her to the former job<sup>23</sup>. “I gave birth to my child on October 19<sup>th</sup>, 2007. The average wages per unit referred in the decision is that << bonus wages >> offered to a mother by the employing company, and which Ringier omitted to provide it for me. Beside that, as per the law mentioned in the decision, the company has to pay

21 “Sebesi says he won the TVR contest deservedly”, CityNews.ro, June 26<sup>th</sup>, 2009.

22 “Ringier lost the case against Luana Mureșan”, Tiberiu Lovin, Reportervirtual.ro, February 13<sup>th</sup>, 2009.

23 “Ringier, forced by the Court to pay 50,000 Lei in the Luana Mureșan case”, Petrișor Obae, Paginadamedia.ro, February 15<sup>th</sup>, 2009.

me all the wages as from the dismissal decision date to the enforcement of the court decision of reinstatement to the former position. When my child was six months old and I was in my first day back to work, the executive manager of the magazine division, Dragoș Varsandan, called me to have a coffee and told me that he wanted to cease our collaboration. And because they could not do it that way, Ringier proceeded to the redundancy of my position, and now Unica is managed by a deputy editor in chief. Whose deputy if she? I haven’t won the case because I had power. I won it simply because I was right. And Ringier did not lose this case because it was weak, but because it was wrong in my case. And this is the case that I am interested in”<sup>24</sup>, said Luana Mureșan.

### Marian Gîrleanu vs. România Liberă

Around the same time, journalist Marian Gîrleanu, correspondent of the daily newspaper *România Liberă* in Vrancea, has won the trial against the publication, after he was fired abusively<sup>25</sup>, contrary to the Labor Code stipulations. The decision was executed by force, and stipulated the payment of labor rights and other rights until August 1, 2009. Upon appeal, the journalist has again won and the new decision was to be reclassified in office and be given all the remuneration rights<sup>26</sup>.

### Florinela Giurgea vs. Teleson

On April 30<sup>th</sup>, the journalist Florinela Giurgea has won, finally and irrevocably, the employment litigation filed against SC Teleson SRL, as a former employee of Radio Son part of Teleson. Initially, Teleson’s lawyer claimed that radio Teleson Son is not part of the group and the group does not activate in radio, so that is not subject to the regulations specified in the Collective Labor Agreement on Media Branch, but was contradicted by the information obtained from the Trade Register. Therefore, the company was forced by the court to pay to the reporter the salary rights related with the Collective Labor Agreement on Media Branch.<sup>27</sup>

### Victor Roncea vs. Ziua

On 14<sup>th</sup> July, the journalist Victor Roncea, senior editor at Ziua, was issued by the newspaper executives a “final written warning” which he subsequently disputed at the Bucharest Tribunal, Section Disputes and Labour Conflicts, asking for the annulment thereof<sup>28</sup>. The journalist Victor Roncea accused the managing director of the newspaper, Mihai Pîlșu, of having censored one of his articles (originally published on the newspaper’s website) and of having given him that final written warning undeservedly: “by inventing a totally deceptive technical issue, he censored an interview with Ion Cristoiu vs. the fight against Băsescu

24 “Ringier lost the case against Luana Mureșan”, Tiberiu Lovin, Reportervirtual.ro, February 13<sup>th</sup>, 2009.

25 “The former România Liberă correspondent in Vrancea has won”, Cristi Irimia, Vranceamedia.ro, November 3<sup>rd</sup> 2009.

26 “România Liberă has lost another trial”, Tiberiu Lovin, reportervirtual.ro, March 19<sup>th</sup> 2010.

27 “The trial intended by Florinela Giurgea to SC Teleson SRL has been won by the journalist”, Infoms.ro, April 30<sup>th</sup> 2009.

28 “Litigation of journalist Victor Roncea”, Victor Roncea, victor-roncea.blogspot.com, October 1<sup>st</sup>, 2009.

led by the Media Moguls, after which, because I was *noisy*, issued also this *final written warning* for me”<sup>29</sup>, wrote Victor Roncea on his blog. “On 24<sup>th</sup> September 2009, the Managing Director of ZIUA, Mihai Pîlșu, called me in his office and informed me that he was displeased at my legal action in the court, although my litigation had been filed with the observance of the law and despite that the said person could be considered a kind of disciple of the censored master Ion Cristoiu. Consequently, he asked me to quit my job, <<or I would have been fired anyway, by any means >> - a fact that I considered to be illegal and therefore unacceptable, especially because at my question whether he had something to reproach me professionally, he admitted he didn’t”, added the journalist<sup>30</sup>.

However, the journalist mentioned, within his legal action, that, subsequent to these events, his royalty agreement was terminated abusively and he was dismissed from his position of Senior Editor and editorialist of the newspaper Ziua “without any explanation”. “My harassment at work continued with institutional humiliations meant to make me resign, with degrading acts for my condition of leader of a central publication, once respectable, and with explicit threats of dismissal under any circumstances and despite all legal norms, made abusively by the manager Mihai Pîlșu, as I can easily prove to the court”, added the journalist. “Although the defendant company did not require any kind of verification of its employees’ presence (such as tally cards, a registry book, etc.), it however used this pretext to terminate my employment contract, invoking my absence from work, but without any proof of that and without any observance of my rights as professional journalist [...], although a journalist’s work cannot be measured in manufactured washers per hour, but in written and edited materials”, also mentioned Victor Roncea in the document filed with the court. The journalist requested the admission of his litigation, the annulment of the decision of termination of his employment contract, his reinstatement to the former position, the retroactive payment of his wages for the period flown since the contract termination, and the payment of non-material loss (moral prejudice) in the amount of 10,000,000 Lei.

### Strike at Locic Media Holding

On 26<sup>th</sup> February, the employees of the daily newspapers Atac, Interesul Public and Gool Sport, within the Locic Media Holding, went out on strike, ceasing the printed appearance of the aforementioned publications, on the ground of salary payment delays<sup>31</sup>. “They went out on strike because there are delays in the payment of their wages. We had a meeting with the employer (that is, Marius Locic) and there are signs that the strike might stop”, declared Horia Tabacu, managing director of the Locic<sup>32</sup>. According to Horia Tabacu’s statement for this report, in the subsequent months, the employer Locic paid the wages discontinuously

and partially. In the end, several employees left these newspapers, and some others filed legal actions against the employer. A few tens of employees were affected by this situation. Gool Sport and Interesul Public ceased their activity, and Atac remained active only on-line.

The team of journalists who started the newspaper Gool Sport in May 2008 left in November 2008, after their wages had not been paid for two months. Besides, “Marius Locic has not taken any legal measure to incorporate our employment contracts with the Trade Register”, explained for this report Octavian Țopa, editor in chief of the publication in that period. “Approximately 25 employees, including myself, out of whom 16 of us were journalists, resigned, filed a legal action and won the case in both courts. Now we have a final and binding judgment and we shall also appeal to the services of a receiver. We also intend to file a criminal complaint for fraud, because our wages were paid without any employment contracts legally registered”, also declared Octavian Țopa.

### Layoffs at NewsIn

In August, the NewsIn agency has announced that it would dismiss 20 out of the 168 employees of the institution<sup>33</sup> in order to reduce costs. “It is about balancing costs and offering social and economic security to valuable people,” said Cosmin Popa, general manager of the agency, which specified that the costs with the suppliers would be reduced as well as the administrative and telecommunications costs<sup>34</sup>. By the end of the year, 19 people were dismissed. Other 40 were dismissed by April 2010.

### Layoffs at Prima TV

In November Prima TV has decided to give up 13 employees of the news department. “Prima TV has adjusted the staff of the news department. The number that no longer is in the salary scale for 2010 is 13 persons. This is the only action taken by the management of Prima TV from the beginning of the economic crisis and refers only to the employees of this institution, and those concerned will receive compensatory payments”, said the representatives of Prima TV station for Mediafax.”<sup>35</sup> It’s actually a measure within the personnel scale efficiency plan for the next year, that should be adapted to the economic conditions”<sup>36</sup>, they added.

### The Romanian Federation of Journalists MediaSind vs. the Press Owners’ Association

In December, the Romanian Federation of Journalists (FRJ) MediaSind mentioned in a press release that the newly established Press Owners’ Association (PPR) within Romanian Press Club was not representative so as to renegotiate the rights provided in the Sole Collective Labour Agreement for the Mass-Media, contrary to the fact that the representatives of the PPR had already announced this goal. MediaSind also

29 “ZIUA - Death of a brand”, Victor Roncea, victor-roncea.blogspot.com, September 30<sup>th</sup>, 2009.

30 “SC Ziua SRL notified in the case of censored journalist Victor Roncea”, Victor Roncea, ibidem, October 5<sup>th</sup>, 2009.

31 “The employees of Atac, Interesul Public and Gool Sport go out on strike”, Mediafax.ro, February 27<sup>th</sup>, 2009.

32 ibidem.

33 “NewsIn press agency will sack 20 out of its 168 employees”, Raluca Preda, Adevărul, August 12<sup>th</sup> 2009.

34 “NewsIn sacks 20 employees”, CorporateNews.ro, August 12<sup>th</sup> 2009.

35 “Prima TV renounces to 13 employees from the news department”, Mediafax.ro, November 4<sup>th</sup> 2009.

36 “Prima TV makes dismissal to the News”, Raluca Preda, Adevărul, November 4<sup>th</sup> 2009.



denied, by a series of arguments, the “warlike, offensive accusations” of the Prime-Vice-Chairman of PPR, Răzvan Cornețeanu, about this labour agreement, the only one of the type in the press, resulted after the negotiations between trade unions and the employers’ associations, according to the press release<sup>37</sup>. Cornețeanu had previously mentioned that this document was “extremely poor”, “full of errors, discrepancies and open to interpretations”<sup>38</sup>.

### **The European Federation of Journalists criticizes Ringier. Marian Drăghici case.**

On March 3<sup>rd</sup>, the European Federation of Journalists (EFJ) criticised the double standards used by Ringier Group of Romania, as a result of the complaint filed by the journalist Marius Drăghici with the Bucharest Court, whereby he accused the newspaper Evenimentul Zilei (at the time, still part of the Ringier Group) of harassment at work, censorship and infringement of the claimant’s rights<sup>39</sup>. “The press company Ringier would never apply in Switzerland the treatment applied in Romania, where a discovery was made that they cheat their employees about their legal wages”<sup>40</sup>, stated the secretary general of EFJ, Mr. Aidan White.

MediaSind sent an intimation to the Ministry of Labour - Department of Labour Inspection, in order to check whether any breaches of the law were committed. The competent public authority conducted an investigation, following to which the trading company Ringier Romania SRL was forced to pay all the salary rights to Marius Drăghici, and also to all the other employees of the publications within Ringier trust (with the observance of the amount of minimal wages for mass-media, a 5-25% seniority pay, a 25% stability pay, the mobility clause, etc.). At the same time, the inspectors noticed that the introduction in the Individual Employment Contract of each employee of a non-competition clause breached the dispositions of article 21 of the Labour Code and the provisions of the Collective Labour Agreement for Mass-Media. This clause set out as follows: “The employee shall not perform, in own interest or in the interest of a third party, any activity that competes with the one carried for the employer, and shall not perform, in favour of a third party, any activity that is in a relation of competition with the employer’s”. Consequently, the Labour Inspection decided that the employer should pay to its employees, under the law provisions, all their pecuniary rights over the past three years of activity until the control report.

According to the information provided by Marius Drăghici for the Media Monitoring Agency, the law court has not made any decision yet about the labour disputes pointed by the journalist.

### **Conclusions:**

- The economic crisis has affected more than ever the media employees, with 4,000 layoffs within 16 months.
- In most cases, the journalists that made appeals against unfair and illegal measures from the employers have prevailed.
- Some labor disputes affect the editorial content.

### **Recomandations for journalists:**

- When getting hired, do not give up your labor rights. Only an employment contract guarantees your rights. Inform yourself to know your rights.
- Beware when signing a copyright contract - it has been used to blackmail journalists and to circumvent the Labor Code and the Collective Labor Agreement in the Media sector.
- Do not accept labor contracts containing clauses contrary to the Collective Labor Agreement. Employers should not seek to impose these, because they are illegal.
- Get informed on your rights - read the Collective Labor Agreement for the Media sector ([www.mediasind.ro](http://www.mediasind.ro)) and the “Employee Rights Guide for the Journalists” ([www.activewatch.ro](http://www.activewatch.ro)).
- When you are facing an employment dispute, contact a union of journalists or a media NGO.

37 A MediaSind handout: “The MediaSind reaction to the establishment of the Press Employers’ Association”, December 9<sup>th</sup>, 2009, [www.mediasind.ro](http://www.mediasind.ro).

38 A MediaSind handout: “The MediaSind reaction to the establishment of the Press Employers’ Association”, December 9<sup>th</sup>, 2009, [www.mediasind.ro](http://www.mediasind.ro).

39 Details about the Drăghici case can be found in the chapter “Labour Conflicts” of the report “Freedom of the press in Romania - 2008” - [www.activewatch.ro](http://www.activewatch.ro).

40 “Romania: EFJ Denounces Double Standards of Swiss Company Ringier”, [Europe.ifj.org](http://Europe.ifj.org), March 3<sup>rd</sup>, 2009.

## 7. Ethics

Freedom of expression requires both power and responsibility. Responsibilities are listed in the Constitution and in the laws of the country, and in addition journalists should also respect the professional and ethical codes. This chapter is dedicated to the episodes in which journalists have enjoyed the freedom of expression power, but have forgotten their responsibilities.

We selected cases of ethical slippages, in particular those involving the quality press. We have considered that the ethical violations made by journalists in this type of press are more harmful than those in the tabloids, taking into account the confidence towards this press coming from the public. In addition, the tone given by the quality media is influential for the professionalism of the entire guild.

### 7.1. ELECTORAL SLIPPAGES

In November and December 2009 there were two electoral rounds for the election of the Romanian President.

The fierce political struggle to fill the most important position in the state has split the journalists according to their political views or the editorial line imposed by the owners of the media trusts. The politicians have put an unprecedented pressure, often directly through the media owners. The media owners have supported one or the other of the candidates, have elected and imposed editorial policies and have placed at the forefront visibility and decision line obedient journalists willing to violate the rules in order to influence the debate. And increased pressure came also from the advertising departments affected by the economic crisis.

Up to a point, in a democracy, political and economic pressures are normal and journalists should resist. In this electoral campaign many could not do it. At the end, the political camps are negotiating, but the press has remained as a ravaged field.

Traian Băsescu was in the center of the campaign. He was the one that won a second mandate as President of Romania. Băsescu has a conflict history in his relationships with the media and is responsible for many invectives addressed to the press from the height of the presidential chair during the mandate 2004 - 2009, including the detention for several hours of the phone with which a journalist was filming him in a public place. Some of the media owners allied against him and legitimated for the public eye his anti-mogul discourse. Others, arguing that they merely want to counterbalance the media market, openly supported him.

The result was a campaign that revealed many incorrect and highly questionable techniques used by journalists. Flagrant violations of the journalistic ethics and media law, together with the overt partisanship overshadowed the efforts towards professionalization made in recent years. Citizens have responded and, in many cases, the public of a media product turned against the journalists who have abandoned ethics in favor of politics.

This section is a summary of how the media has managed to handle the electoral campaign.

### Public agenda vs. Electoral agenda vs. Media owners agenda

According to the monitoring conducted by ActiveWatch - Media Monitoring Agency during the presidential campaign, the public agenda has been replaced by the electoral agenda of the main candidates and by the rumors that have circulated with a great vitality spread by the campaign staffs'. Thus, themes such as "Băsescu dictator" and "Geoană sold to Russia" launched by the candidates were taken and amplified by the media. After the campaign, the "violet flame" paralyzed for a week any attempt to journalism.

Moreover, one of the main themes addressed by journalists in the campaign was the very low performance of the journalists and the impact they had on voters. Meanwhile, the media owners entered the show, live on their televisions, to communicate their views and political options. The journalists' agenda from these televisions overlapped in many cases that of the employers.

### Press discreditation

Within this context, the President made a series of statements against the media and media owners. Băsescu said on November 8<sup>th</sup> that during his mandate, he left the press free, but it had compromised itself. According to the President, the press had freedom "as much as it wanted to take"<sup>2</sup>. In some episodes of his conflict with the press, the President named Antena 3 journalist Andrei Badin as "you weirdo"<sup>3</sup> declared that the journalists are demagogues, and during a visit to Sulina, told a SPP officer to take away a journalist who recorded him, saying that the journalists „are worst than the former Security.<sup>4</sup>

Amid the scandal on advertising purchased of public money by the former Minister of Youth and Sports, Monica Iacob Ridzi, Băsescu described the situation as "a battle for public money taken by the media and weak politicians that make public money available to the media"<sup>5</sup>. Attending WorldBloggingForum, Băsescu told bloggers that the major media trusts "have already started to be used as instruments to influence political decisions or as tools for achieving economic favors" and that "the Internet world has remained less dependent on economic interests or political interests."<sup>6</sup>

The three media owners Băsescu named "moguls" are: Dan Voiculescu, founding president of the Conservative Party, allied with the Social Democratic Party, Dinu Patriciu member of the National Liberal Party and Sorin Ovidiu Vîntu

1 „The presidential elections 2009: the electoral campaign on the TV-5 weeks in balloon”, ActiveWatch, Decembrie 7<sup>th</sup> 2009.

2 „Băsescu: During my mandate the press was free, but compromise itself”, Mediafax.ro, November 8<sup>th</sup>, 2009.

3 „Băsescu to journalist Andrei Badin: you weirdo!” Telegraph, March 31<sup>st</sup>, 2009.

4 „Băsescu on journalists: these are worst than the former Securitate,” Roxana Preda Day event, June 25<sup>th</sup>, 2009.

5 „Traian Băsescu: The Ridzi case is just the tip of the iceberg”, Realitatea.net, July 14<sup>th</sup>, 2009.

6 „„Băsescu: media trusts used to influence political decision or for favors” Mediafax, Noiembrie 10<sup>th</sup> 2009 .

which met Băseșcu's opponent on the night of December 2-3<sup>rd</sup> a few days prior to the second round of the presidential elections. They all reacted and criticized the president during the electoral campaign.

### The Basescu Tape

On the evening of November 26<sup>th</sup>, while Traian Basescu was in the Realitatea TV studio, Gardianul newspaper launched on a website, without verifying its authenticity, a little movie where the president seemed to hit a child during an electoral meeting. The movie was shown live to the President at Realitatea, and in the following days it was insistently rerun. The images had been announced a day before by Dinu Patriciu<sup>7</sup>, and Sorin Ovidiu Vantu appeared in person at Realitatea TV to express harsh criticism against the state governance in the past five years: "it has been the most idiotic governance since the Fanariots"<sup>8</sup>. Immediately, the topic was taken up by almost all the mass-media institutions. The images were displayed even on the underground and on the supermarket TV sets, in the Zoom TV network, belonging to Monopoly Media, a company part of the Realitatea-Catavencu group, that usually broadcasts lifestyle news. In one single day, on November 27<sup>th</sup>, the movie was run 2,298 times by Antena 3 and 1,459 times by Realitatea TV, as Gelu Trandafir, a member of the National Audiovisual Council of Romania, declared for ActiveWatch. Which means that, for an average 10-second sequence, the movie was broadcast by Antena 3, in one day, for more than 6 hours. Thus, during the debates, the movie run in a loop, non-stop, against the background.

After their defeat in the elections, Vasile Dancu<sup>9</sup> and Miron Mitrea<sup>10</sup>, important members of PSD (the Social Democratic Party), have called the movie broadcasting up to the saturation point an erroneous tactics of the party, and not an issue for the TV stations editorial policy. The topic has been abandoned by the press shortly after December 6<sup>th</sup>, with no conclusions.

### Blackmailing the head of ANI (National Integrity Agency)

On November 10<sup>th</sup>, in the middle of the election campaign, Curentul newspaper printed an "ambient recording arrived at our editorial offices"<sup>11</sup>, in which the former manager of Ziua newspaper, Sorin Roșca Stănescu, may be deemed the author of a blackmail against a dignitary<sup>12</sup>. The meeting was facilitated by the journalist Bogdan Chiriac, who provided influence services<sup>13</sup>. The three have admitted that the recording was authentic, and made on September 25<sup>th</sup>, in the El Capitan restaurant, near the Snagov Lake.

According to the document, Stănescu has put on the table a defaulted loan agreement, signed by Macovei as a witness. As shown by the recording published by Curentul, Stănescu stated that the agreement publication wouldn't have caused Macovei any problems with the law, but it would have ruined his image. Then, "because justice should be done and the people should learn the truth", he asked Macovei to make known to him the foreign accounts of politicians such as Vasile Blaga, Adriean Videanu and Radu Berceanu. He even said that he would transfer EUR 5 to each account, just to let them know that he was aware of their businesses.

In the same recording, Chiriac said that Stănescu had "two handwritten documents" on Macovei, but that he "wouldn't give them away yet, but he would trade that for an *advancement* on the files of Berceanu and Videanu". Then, he added: "Because he didn't have that report, he asked you to give him information that he could make public. Or who knows, maybe he would just use that information to blackmail Videanu, Berceanu...".

During the same conversation, Stănescu has attempted to force the ANI President to verify certain politicians with priority and to give him the potential results he could use for a new blackmail. Although the two journalists were in the possession of compromising information on Macovei, they have chosen to deprive the public of such information, in order to obtain certain benefits<sup>14</sup>.

However, the expressions like "public interest", "people must know the truth", "justice", "democracy" were used in these discussions. As the media expert, Iulian Comanescu observes<sup>15</sup>, "SRS calls «journalistic investigation» what others define as «blackmail», and this procedure is representative for many "journalistic investigations" in Romania. Stănescu wrote in the same day on his blog: "anyone reading the shorthand record posted below can see for himself that there is no blackmail involved. It's just a *common episode of a journalistic investigation*".

The Media Organizations' Convention publicly condemned the behaviour of the two: "we consider that both of them severely violate the status of journalists"<sup>16</sup>. So did the Romanian Press Club and Romanian Journalist Association which considered that the press institutions collaborating with the two as journalists or editorial managers, risk compromising their own prestige and the credibility of the profession<sup>17</sup>. TVR suspended Chiriac's show, and Realitatea TV announced that the two journalists would no longer be invited to electoral broadcasts. Still, after the end of campaign, they resumed their television appearances.

### Nistorescu censors Cotidianul

In late July, Cornel Nistorescu took over the management of Cotidianul newspaper. On the 31<sup>st</sup> of July, the feature<sup>18</sup> on cotidianul.ro, an investigation exposing the

<sup>14</sup> The Press Release of the Media Organisations Convention, 11.11.09.

<sup>15</sup> "Rosca Stănescu, the Motoc head of the Romanian press", Iulian Comanescu, Hotnews, 11.11.09.

<sup>16</sup> The Press Release of the Media Organisations Convention, 11.11.09

<sup>17</sup> The Press Release of CRP and AJR, 19.11.09

<sup>18</sup> "Petru Romosan, the denunciator of Horia Bernea and Ion Negoitescu", Mirela Corlatan, Cotidianul, July 30<sup>th</sup>, 2009

<sup>7</sup> "Patriciu: I have seen Basescu punching a child", Mediafax, November the 25<sup>th</sup>, 2009.

<sup>8</sup> "Vantu on the past five years: "it has been the most idiotic governance of the state", Realitatea.net, November 25<sup>th</sup>, 2009.

<sup>9</sup> "Vasile Dancu: Every time Geoana makes a mistake, he proves Ion Iliescu was right", Cristian Țutu, Academia Catavencu, December 16<sup>th</sup>, 2009.

<sup>10</sup> "The mistakes made by Geoana & co in election year of 2009", mmitrea.ro, Miron Mitrea, December 12<sup>th</sup>, 2009.

<sup>11</sup> "Roșca Stănescu and Bogdan Chiriac - blackmailing the head of ANI", Dana Iliescu, Curentul, 10.11.09.

<sup>12</sup> Press release of Media Organizations' Convention, 11.11.09.

<sup>13</sup> CRP and AJR Press Release, 19.11.09.



collaboration of the poet Petru Romosan with Securitate authorities, suddenly vanished. Costin Ilie, the editor-in-chief of the website, posted it again with no link to the home page, so it could be accessed only by knowing the link. The material was posted by Catavencu Academy and blogs, including by Mihnea Maruta and Cristian Grosu, two former editors-in-chief of Cotidianul newspaper. Cornel Nistorescu, a declared friend of Romosan, has been accused of censorship. Four days later, Nistorescu wrote in a leading article that “it was only a rescheduling of an incomplete material, wrote on the basis of few documents and without discussing with the person accused of most dreadful things”. Mirela Corlatan, the article’s author, explained on her blog that she had discussed with Romosan, when the latter threatened her: “I assure you I’ll have you removed from the press!”<sup>19</sup>. In the same post on her personal blog, she said that the investigation was from two years ago, waiting for CNSAS (The National Council for the Study of the Securitate Archives) verdict in order to be published. Cotidianul returned to the subject on the 5<sup>th</sup> of August, through a series of materials including the initial investigation, divided in two articles, mixed up in other six articles which were favourable to the writer<sup>20</sup>. The series included a leading article signed by Nistorescu, where he narrated youth memories with Romosan, described as the “rebellious poet of Cluj. He was called the little Rimbaud”<sup>21</sup>.

After this incident, Mirela Corlatan was fired because she had participated to the ““6, vine presa!” (Watch out, here comes the press!) Show broadcasted by B1TV. Cristian Patrasconiu was also sacked. A large part of the editorial office protested against his dismissal, and they also left shortly after. Doru Buscu, who had been the newspaper director for 5 years, separated himself from the new Cotidianul<sup>22</sup>.

Instead, the very Petru Romosanu became an editorialist, who started with the articles “Who’s afraid of the judges”, “A destructive president” and “The useless president”.

In the next four months, Cotidianul had a biased performance, according to OSCE report on the second round of the 2009 presidential election<sup>23</sup>. One of the editors, displeased with the editorial policy change, went to Nistorescu and invoked the conscience clause. In exchange, he received bad language and threats<sup>24</sup>.

Immediately after the electoral campaign, the newspaper was closed down, and the cotidianul.ro website was bought by the Casa Serafim Company, owned by Nistorescu<sup>25</sup>.

## Do we want respect?

On October 1<sup>st</sup>, Realitatea TV launched the “We want

respect” campaign, which was meant to be a manifesto of simple people who “carry Romania on their back”. A week later, 9,000 trade unionists went out on the streets, demanding the Government’s resignation. Some them carried “We want respect” placards, whose images were persistently broadcasted by Realitatea TV, as Hotnews reported<sup>26</sup>. Six of the Realitatea Media Trust administrators were among the trade union leaders who organized the protest.

On November 24<sup>th</sup>, on behalf of the same campaign, there was broadcasted a supporting spot for Crin Antonescu, assumed by Realitatea TV. The spot says “we support and appreciate the consistency and coherence in Romanian politics”, principles illustrated by two statements of the presidential candidate Crin Antonescu, before and after the first round of the presidential elections, where he said that he would never support the presidential candidate Traian Basescu.

Soon after elections, the “We want respect” campaign disappeared.

## Contradictory accounts on the meetings

On December 1<sup>st</sup>, PSD organized a demonstration in Opera Square in Timisoara. The selected location, a symbol of the 1989 revolution, upset many people from Timisoara, who gathered in a counter-demonstration. The event was narrated quite differently by various media channels: Realitatea TV, Antena 3 and Mediafax and NewsIn press agencies reported that there were 3,000 PSD supporters and only few hundred anti-Geoana, and the television channels persistently filmed the Geoana supporters.<sup>27</sup> Furthermore, Realitatea affirmed that the two groups cursed and fought between them and the gendarmes intervened with tear gases. The Gendarmerie denied<sup>28</sup>, stating that there were only few thrusts. On the other hand, Hotnews<sup>29</sup> (quoting several sources) and Romania Libera declared that, on the contrary, thousands of Timisoara inhabitants gathered together to clamour down Geoana, and the Geoana supporters were only few hundreds. Romania Libera went even further and said that “the PSD supporters gathered from the entire county came <<armed>> with flags and placards, so that the Community Police had to intervene with tear spray in order to separate the two groups”<sup>30</sup>.

In the evening of the same day, TVR 2 interrupted a sports show in order to broadcast for 40 minutes the festivities organized for the National Day at Adamclisi. Several members of PNL and PSD parties attended the festivities, including Mircea Geoana, who made election speeches. CNA (National Audiovisual Council) sanctioned TVR 2 by public notice for the incident<sup>31</sup>. No television station initially

19 “Romosan to me: I assure you I’ll have you removed from the press”, Mirela Corlatan, Dilemediatic.blogspot.com, August 1<sup>st</sup>, 2009.

20 “Romosan Scandal”, Cotidianul, 5.07.09.

21 “About innocence, heroism and stupidity”, Cornel Nistorescu, Cotidianul, August 5<sup>th</sup>, 2009.

22 “The politics of Basescu”, Doru Buscu, Voxpublica.realitatea.net, November 5<sup>th</sup>, 2009.

23 OSCE Report, 07.12.09.

24 “Nistorescu: Go .... yourself!”, Tiberiu Lovin, Reportervirtual.ro, November 24<sup>th</sup>, 2009.

25 “Cornel Nistorescu undertakes Cotidianul.ro”, Hotnews, 09.02.2010.

26 “Protests and hearings. Dumitru Costin, BNS leader and administrator of Realitatea Media: The Trust will pay its debts to the state”, Dan Tapalaga, HotNews.ro, October 7<sup>th</sup>, 2009.

27 “Eye-witnesses: 3,000 Timisoara inhabitants howled down Geoana and Antonescu. How the televisions manipulated the manifestation from Opera Square”, Attila Biro, Hotnews.ro, December 1<sup>st</sup>, 2009.

28 Ibidem.

29 “Geoana, copiously howled down in Timisoara, made his speech in Opera and left by backdoor”, Hotnews.ro, December 1<sup>st</sup>, 2009.

30 “Timisoara, the war stage of the presidential elections”, Andreea Pocotila, Romania libera, December 2<sup>nd</sup>, 2009.

31 CNA Press Release, December 2<sup>nd</sup>, 2009.

broadcasted a protest against PSD, made by few hundreds of people in University Square. The protest was reported only on the internet, on Hotnews.ro and OTV, when the TV station proclaimed itself the “people’s television”.

The accounts were not objective in either case.

### Debate and fraud

Before the first round of the presidential elections, the subject of a possible election fraud has been intensely mediatised. On the elections’ day, the televisions presented in an alarming manner the danger of fraud<sup>32</sup>, following the politicians’ statements. Starting the next day, the subject has been abandoned without any conclusion. The editorial behaviour has raised suspicions regarding the good faith of the journalists who reported on this subject<sup>33</sup>.

The confrontations between candidates have been another controversial subject. The campaign staffs failed to agree upon the campaign format, and the TV stations discussed for days the lack of debate, speculating about who avoided a confrontation. Eventually, the main debates have not been organized in television sets.

Remus Cernea, the candidate of the Green Party, also came to the debate held on November 14, which took place between Traian Basescu and Crin Antonescu in Cluj. Basescu<sup>34</sup> and Antonescu<sup>35</sup> declared that they were willing to participate to any debate with other counter-candidates, and Remus Cernea claimed that he had received confirmations from both campaign staffs<sup>36</sup>. Nevertheless, on the spot, he was ignored by the organizers, and then he got locked outside the room<sup>37</sup>. Daniel Buda, the leader of PDL Cluj, declared that Remus Cernea “was not invited to the debate ”<sup>38</sup>.

### “Internet posting men” of the political parties

In the last election campaigns, the political parties hired “internet posting men” - persons who vote in organized manner in online surveys, comment on newspapers’ websites in favour of the supported candidate and launch attacks against the other candidates. The goal is to create the impression that the candidate has more supporters than in reality, to manipulate the public opinion and to discourage the journalists writing negative facts about the party.

In an undercover investigation which was published by Romania Libera in November 2009<sup>39</sup>, a journalist who

had worked as a posting man of the party for two weeks described how the posting job was carried out. The parties have consultants preparing on a daily basis the messages’ texts and a list of 40-60 articles that must be flooded by comments. Everything happens under the direct supervision of the communication departments of the parties, and the comments are not deleted from the newspapers’ websites in order not to lose traffic, even if the comment comes from a party basement, according to the article.

### Disguised publicity in the local press

On September 21<sup>st</sup>, four local newspapers published the same text, written as coverage with no publicity, where Mircea Geoana is praised for a European project enabling the young people coming back from abroad in order to work in the Romanian agriculture to receive EUR 25,000<sup>40</sup>. The *Monitorul de Suceava*, *Evenimentul* and *Faclia* of Cluj newspapers published unsigned articles, and the *Monitorul de Vrancea* newspaper signed with newspaper’s name. “At the end of the last week, the PSD leader met in Arges with over 20 young farmers who were the living proof that these money were not just an electoral bugaboo, as some grumblers hurried to affirm” said the article.

### Electoral pirates at public radio station

On the day of the second round of the presidential elections, at 06:14 am, the public radio station (SRR) broadcasted a spot where a voice imitating Traian Basescu said “ho, ho, ho, I fooled and cheated”. The sequence was mixed with real statements of Traian Basescu, with an audio background of a “manea”. The spot ends with the voice of Ion Iliescu: “We highly recommend Mircea Geoana, vote for him”. SRR later informed: “The original content of the show <<larba verde de acasa>> was altered by interposing pirate audio sequences with denigrating content to one of the presidential candidates. The prompt intervention of the broadcast operators blocked the sequel of pirate material broadcast, being disseminated the original version available in the broadcast room on a control-CD”. CNA sanctioned SRR by public summons. SRR initiated an internal investigation and, on December 31, terminated the labour agreement of the technical broadcast director Florin-Mihai Ielcean.

### Eurobarometer and OSCE on elections

Pursuant to the OSCE report on presidential elections<sup>41</sup>, “some private broadcasters, such as Realitatea TV and Antena network, adopted a hostile attitude against the acting president, illustrating the campaigning in an unbalanced manner and lacking the impartiality.” The trend was obvious especially in the news broadcasted by Antena 1 in the first round, where Basescu benefited of 59% of coverage, out of which 72% in negative key and only 4% in positive key, indicated the OSCE monitoring. Similar circumstances occurred in newspapers as well: Jurnalul National, from the same trust as Antena, allocated to the president 83% of the space dedicated to the presidential candidates, out of which 77% with negative content and 8% positive content.

32 ActiveWatch Bulletin, November 29<sup>th</sup>, 2009.

33 “A bloated lie of Realitatea and Antena: Vote fraud”, Dan Tapalaga, Hotnews, November 22<sup>nd</sup>, 2009.

34 “Public debate in Cluj-Napoca between Traian Basescu and Crin Antonescu. Mircea Geoana announced that he would not participate”, A.N., HotNews.ro, November 14<sup>th</sup>, 2009.

35 “Antonescu: I go everywhere, anytime to a debate with Basescu, Geoana, other candidates”, Mediafax.ro, November 13<sup>th</sup>, 2009.

36 “Complaint filed to the OSCE mission in Romania”, Remus Cernea, Remuscernea.ro, November 16<sup>th</sup>, 2009.

37 “The backstage of Cluj duel: Basescu-Antonescu was a sold-out play, Remus Cernea was left outside”, Codrin Taut, HotNews.ro, November 14<sup>th</sup>, 2009.

38 “PDL Cluj: Only Geoana and Antonescu were invited to the debate, not Cernea”, Mediafax.ro, November 14<sup>th</sup>, 2009.

39 “Self-denunciation: I have chased on internet the Crin Antonescu’s rivals for two weeks”, Vlad Ursulean, România libera, November 18<sup>th</sup>, 2009.

40 “Geoana, self praise in the local press”, Dan Duca, Cotidianul, September 21<sup>st</sup>, 2009.

41 OSCE Report, February 17<sup>th</sup>, 2010.



Cotidianul allocated 74%, out of which 83% in a negative key and 3% in a positive key.<sup>42</sup>

The Romanians' confidence in television decreased from 70%, in June 2008, to 61% during election campaign, according to the Eurobarometer<sup>43</sup> ordered by the European Commission and completed under the coordination of TNS Opinion & Social. "The excessive polarization of the speech and the involvement of the major media trusts in the presidential campaign seem to have led to a loss of confidence capital for these media channels", estimates the study.

## 7.2. OTHER ETHICAL DEVIATIONS

### Dan Diaconescu in the dumpster

During a "Dan Diaconescu în Direct" show broadcasted by OTV in January, Tolea Ciumac, a former K1 fighter and one of the regular guests of the Dan Diaconescu TV moderator, tried to throw the latter in a dumpster. CNA fined the television station RON 5,000, as such images would have incited to violence<sup>44</sup>. Dan Diaconescu requested CNA to reanalyze the decision taken in this case. "The scene happened pretty fast. It lasted maximum 10-15 seconds, when the show producer hesitated a little. She had discussed with Tolea, [who] had told her it was a joke, and Magda Ciumac was actually in the dumpster. The show producer oscillated whether to interrupt or not (the show). If she interrupted the show, she would fail to get evidence that Tolea wanted to put me into the dumpster. Everything happened very fast. It is as if one individual would enter the studio and shoot with a machine gun, when can you stop the broadcast?"<sup>45</sup>, explained Dan Diaconescu, who denied that the incident was staged.

### Mircea Badea, accused of instigation to violence

On March 3, CNA fined the Antena 3 TV station RON 10,000, because Mircea Badea, the TV moderator of the "In gura presei" show, would have instigated to violence against the alleged murderers of the handball player Marian Cozma, killed in Hungary. "I hope that commando, this term comes in handy, sent from Montenegro to erase the bustards, man, I do hope they really whack them. I mean, they shouldn't go all this way for nothing, they should catch them and whack them!"<sup>46</sup>, said Mircea Badea in the live show. "Mr. Mircea Badea had a speech of instigation to violence against the alleged criminals, Hungarian citizens of Roma ethnicity, an action prohibited by the audiovisual law"<sup>47</sup>, explains the CNA decision, who qualified the TV moderator's attitude as "incompatible with the rule of law".

## Freedom "Sponsoring"

In 2009 and early 2010, the Romanian Federation of Journalists MediaSind and the employers' organization Romedia launched a series of press releases demanding state subsidies and facilities for the press and journalists<sup>48</sup>. The press releases included a series of useful requests (see Media Market chapter). Among such requests, arguable demands were also launched, such as "direct/indirect subsidies for *all* mass-media *activities*, as granted in most European Union's states" or "re-grant of financial facilities for the *transport and accommodation expenses* of mass-media employees in a mission"<sup>49</sup>. Such facilities could create a journalists' dependence on the state.

The organizations motivate such requests, on behalf of the journalists, using phrases like "the Romanian press risks *losing its freedom won 20 years ago!*", "*The freedom of speech* in danger" or "awareness campaign for the government members to abide by *the Romanian Constitution* which guarantees the citizen's right to be correctly informed". As Teodor Vasiliu, the president of the Romedia Employers, said, "a financially free press is also a free editorial one. The press supported financially is even *more* editorial free. [...] We must obtain from the Romanian Government via European Union facilities that might help us survive and, why not, help our journalists to have a decent life ...".

Meanwhile, in April, the Cluj County Council announced that it intended to offer approximately one million lei as support for the local press. "This partnership may be created in this legal form of public actions and publicity on precise projects. We have no other way available and the Cluj press understood that, by this partnership, through which we promote our county, we are able to develop this collaboration in order to support the media trusts precisely to keep their jobs", said Alin Tise<sup>50</sup>, the President of CC of Cluj. Several editors in chief from Cluj said they agreed to the dissemination against payment of the CC actions<sup>51</sup>, but the Press Professionals Association - Cluj declared to be against it, considering that "this initiative of the CC President, Alin Tise, would affect the remaining journalistic independence of the local mass-media"<sup>52</sup>. Eventually, the sponsorship failed to be completed.

A quarter of the journalists holding no leading position and 39% of the coordinating editors are involved in the conclusion of the advertising contracts, in compliance with the report "Self-regulation of the Romanian press launched by ActiveWatch in October"<sup>53</sup>. The local journalists (36%) and radio journalists are involved to a greater extent in the advertising department activity.

42 OSCE Report, February 17<sup>th</sup>, 2010.

43 "Eurobarometer: The Romanians are pessimists about economy, quality of life and capacity to exit the crisis", Anne-Marie Blajan, Hotnews, January 25<sup>th</sup>, 2010.

44 "OTV fined by CNA with RON 5,000 for the Diaconescu dumpster", Cotidianul, January 13<sup>th</sup>, 2009.

45 "Dan Diaconescu requested CNA to reanalyze the two fines charged to OTV", Mediafax.ro, January 22<sup>nd</sup>, 2009.

46 "Mircea Badea, fined for instigation to violence in Marian Cozma case", C.M., HotNews.ro, March 3<sup>rd</sup>, 2009.

47 "Decision no. 321 on 03.03.2009", CNA, March 3<sup>rd</sup>, 2009.

48 "Save the Press!" campaign, MediaSind, February 9<sup>th</sup>, 2010.

49 The list was put forward in early 2009 and re-submitted in 2010. See "SAVE THE PRESS!" CAMPAIGN, February 9<sup>th</sup>, 2010, www.mediasind.ro. For an analysis of the arguable proposals included in this document, see Ethics chapter of this report.

50 "One million lei as help for the Cluj press: money for exiting the crisis or for buying the silence?", Hotnews.ro, Costin Ionescu, April 14<sup>th</sup>, 2009.

51 "The opinions of media leaders about Tise initiative", City News, April 13<sup>th</sup>, 2009.

52 "Association of Cluj Journalists against Sarkozy plan of CC's President", Codruta Simina, Cotidianul, April 14<sup>th</sup>, 2009.

53 "Press Self-regulation in Romania", ActiveWatch, October 23<sup>rd</sup>, 2009.

## “Free Gigi!”

At the beginning of April, the businessman George Becali, the President of the New Generation Party, was detained by the prosecutors, together with other five persons, on the assumption that he would have sequestered three individuals suspected to have stolen his car. In the following years, the majority of the press was accused of “having exercised pressures on the magistrates and tried to discredit the justice process, through unbalanced and partisan reporting of the detention”<sup>54</sup> of Becali, a fact known as “telejustice” (a term also used to mark the overexposure<sup>55</sup> of some lawsuits and circumstances further brought before the court<sup>56</sup>). Furthermore, after his release on April 17, George Becali wanted to thank the press for the “support”: “I would like to thank all the media trusts and the press in general, because, honestly speaking, [...] I felt comfort in my suffering [...] when the press defended me”<sup>57</sup>.

## STAR-JOURNALIST DISGUISE ADVERTISING

### Gabriela Vrânceanu-Firea

In April, Gabriela Vranceanu Firea was accused of disguising advertising as editorial and of mixing editorial policy of the publications she leads (*Financiarul* and *Saptamana Financiara*) with the personal interests<sup>58</sup>. She presented in a favourable light, extremely detailed, a residential complex where she had bought a house for her mother, without specifying that she advertised. According to an article published in *Evenimentul Zilei*, the journalist would have used its image as media star to promote the residential complex in the pages of the publications she manages, as well as via a press release broadcasted by Antena 1. “We have sent this press release because the journalists requested such information”<sup>59</sup>, declared Cristina Severin, PR manager of Antena 1 TV station.

### Iulia Vantur

In October, Pro Tv issued a press release where the host of the “Dansez pentru tine” show, Iulia Vantur, praised the performances of a luxury car. “As we are responsible for the communication and Iulia’s image, we decided together with her to help her with this communication”<sup>60</sup>, declared Maria Apostol, PR Manager Pro Tv, also mentioning that Pro TV has not concluded a contract with the auto company, but Iulia Vantur. “The road back home was relaxing, comfortable and extremely silent. I only had diesel cars so far, which are louder, but Mercedes-Benz GLK is a motor oil car, so I didn’t even heard the engine, only felt it when I pushed the acceleration paddle. The car is strong and has a 3.5 engine

54 “Press and justice” Case study in the seria “Stimulation of critic thinking of the journalists” series, CJI.ro, 2010.

55 “Dan Nica: Even if the police is not perfect, we must have confidence”, Realitatea.net, April 2<sup>nd</sup>, 2009.

56 “Tele-justice”, Cornelius Popa, Monitorul de Cluj, October 17<sup>th</sup>, 2007.

57 “Becali is free: I thank the media trusts which supported me!”, Antena3.ro, April the 17<sup>th</sup>, 2009.

58 “Villa’s news with Gabi Firea”, Ionut Stanescu, Evenimentul Zilei, April 23<sup>rd</sup>, 2009.

59 Ibidem.

60 “Crisis advertising: Product Placement and press releases”, Paginademedia.ro, October 20<sup>th</sup>, 2009.

and 250-270 horse power, yet practical, dynamic, with a bold personality and I really felt secure on the road”<sup>61</sup>, said, among others, Vantur, in the press release.

### Mircea Badea

After the “In gura presei” show, broadcasted on July the 20<sup>th</sup> by Antena 3, the moderator Mircea Badea has been accused of disguised advertising, after he and his team had staged the live explosion of his laptop, in order to emphasize the benefits of the warranty offered by the manufacturer. In this case, it has been pointed out how the company supported the repairs of any failure, providing the “no matter what” warranty.

Interviewed by the journalist Petrisor Obae regarding this incident, Mircea Badea declared: “Whatever I had to say, I said it on TV. This is a subject I do not want to talk about anymore. A laptop exploded from various reasons. Why did it explode? It does not concern me [...]. I am not interested in clearing this subject in any way. It seems to me this is a subject that does not exist. I’m really not interested in clarifying your confusion. A laptop broke down. I have a warranty covering the accidents. I do not understand why it is so important”<sup>62</sup>.

### Gazeta Sporturilor promotes itself by threats

In May, Gazeta Sporturilor (GSP) started a publication promotional campaign with a message against corruption in sports. During such campaign, it has been blamed of unauthorized mix of journalism and marketing<sup>63</sup>. GSP staff sent anonymous letters bearing the campaign slogan (“We care about sport. Maybe too much”) to the football federation leaders, letters drafted using letters cut from newspapers, and the recipients Dumitru Dragomir and Mircea Sandu interpreted them as death threats, which generated a large number of news in the press<sup>64</sup>. In addition, also under the anonymity protection, the journalists wrote messages with washable paint on the cars of some football players and launched the rumour that GSP website was “hacked”. After the press transmitted the information as real, it came out the real meaning of the events: everything was a setup designed within the “guerrilla” campaign of Gazeta Sporturilor.

The journalism professor Bradut Ulmanu commented the situation on his blog: “The journalism must not be mingled with marketing. This is because a newspaper deceives his readers when making up stories. Regardless of the greatness of the message you want to send, such things are simply not done, because the newspaper’s role is to inform, not to confuse. When you start sending letters and painting the cars, and then you innocently report about your own actions and the reactions it generated, means you ignore the real reason the public watches you: to find out real facts. Yes, some of them caught the idea, and yes, there were signs

61 Ibidem.

62 “The explosion of Mircea Badea’s laptop, an advertising setup”, Petrisor Obae, Paginademedia.ro, July 23<sup>rd</sup>, 2009.

63 “The new campaign of Gazeta Sporturilor began with a cheat”, Alexandru-Bradut Ulmanu, Jurnalismonline.ro, May 15<sup>th</sup>, 2009.

64 “Dumitru Dragomir and Mircea Sandu received death threats”, Realitatea.net, 11 mai 2009.

that the GSP staff was no stranger to all this. Yet, others took it seriously”<sup>65</sup>, declared Bradut Ulmanu on his blog, as a reaction to the events.

### Horia Ivanovici, accused of faking an interview

On September 22<sup>nd</sup>, a hypothesis has been launched on Blogdefotbal.com, according to which Horia Ivanovici, the producer of the Fanatik Show, on Digi Sport, would have staged an exclusive interview, under the protection of anonymity, with a football player from Steaua Club. According to the blog, Ivanovici recorded himself, digitally modified his voice and played live the audio sequence in a show after the dismissal of Cristiani Bergodi coach<sup>66</sup>. Horia Ivanovici rejected the accusations.

Ionut Grigore, expert in digital voice processing, declared for Adevarul: “No doubt, the undistorted voice was strikingly similar to the voice of Mr. Ivanovici. The softwares can modify anything, but are not able to replicate the original voice timbre. There are two options: either Mr. Ivanovici read that text, and somebody from his environment posted on the web, or somebody else is able to imitate his voice and wanted to play a joke on him”<sup>67</sup>.

The editorial manager of Digi Sport, Teo Avrănescu, commented about the incident: “It is hard to believe and to demonstrate that this is the voice of Horia Ivanovici. Even if, let’s say, this would be the case, I don’t think we would take any measure. We are a commercial television. This is a successful show, and this is what the public wants. There are plenty of shows with rating on issues that are not always real”<sup>68</sup>.

### “So, Ladies and Gentlemen, EARTHQUAKE in Vrancea!...”<sup>69</sup>

After an earthquake of medium magnitude occurred on the 25<sup>th</sup> of April in Vrancei Mountains, the main news televisions (Antena 3 and Realitatea TV) were criticized for the alarming manner they covered the event, a manner “defined by the moderators’ trend to exaggerate the gravity of the event, by using syntactical constructions with emotional load, by repeating evaluation phrases such as <<strong earthquake>> and <<it has been felt quite/very strongly>>, which designated the earthquake intensity in Bucharest. Also, one of the two television stations accompanied the comments and studio discussions with images promoting chaos situations, destruction, human suffering, filmed after high magnitude earthquakes”<sup>70</sup>. Additionally, the journalists were accused of stating unadvised personal opinions, leading to information distortion and to panic inducing among population. The televisions violated the CNA law, which stipulates that in such circumstances “it is to be avoided the unnecessary emphasis of the anxiety

65 “The new campaign of Gazeta Sporturilor began with a cheat”, Alexandru-Bradut Ulmanu, Jurnalismonline.ro, May 15<sup>th</sup>, 2009.

66 “The anonymous player from Steaua club... is not that anonymous”, Blogdefotbal.com, September 22<sup>nd</sup>, 2009.

67 “Horia Ivanovici, suspected of passing himself as a Steaua player during Fanatik show”, Vlad Epurescu, Adevarul, September 22<sup>nd</sup>, 2009.

68 “The anonymous player from Steaua is Horia Ivanovici”, Realitatea.net, September 22<sup>nd</sup>, 2009.

69 “So, Ladies and Gentlemen, EARTHQUAKE in Vrancea!...”, ActiveWatch, May 12<sup>th</sup>, 2009.

70 Ibidem.

and the information sources are to be quoted. There shall be avoided the speculations on the tragic events, causes and their consequences or the repeated broadcast of shocking images, in order not to provoke useless fears or panic among the public. [...] The broadcasters have the obligation to cross-examine the information received from their own sources or from occasional collaborators with the information held by the competent authorities, before broadcasting the news and points of view that may generate panic among the population; in case the versions differ, the information received from the legally authorized source will be mandatory broadcasted, and such source shall be specified”<sup>71</sup>.

### The “Black List” from Realitatea TV

In early September, Sergiu Toader, the Project Manager of Realitatea Tv, sent a document to the employees, a document made public by the bloggers, where he listed several public figures “completely banned from broadcast” (“no synchronizations, no invitations to the shows, no live broadcasts”) - due to “deterioration of the public speech”<sup>72</sup>. In the same document, Toader made recommendations regarding the limitation of the interventions made by overexposed persons and suggestions regarding the desirable guests<sup>73</sup>. As a result of this initiative, the President of PIN (National Initiative Party) Lavinia Sandru, who appeared on the “black list”, notified CNA, accusing “the obvious censorship imposed by Realitatea Tv management”, and the institution replied that “Realitatea TV is free to select its guest according to its own criteria. Only the article 71 of the CNA Regulations must be complied with, which provides that all political parties must be represented equally in terms of expressed opinions”<sup>74</sup>.

### Payed analysts

On July 22<sup>nd</sup>, BBC published an article revealing that the former PSD Senator, Adrian Păunescu has received 28,000 euros from Realitatea TV for television appearances, amount not specified in his wealth declaration during his office. Contacted by BBC journalists, Păunescu argued that he failed to mention the contract with Realitatea TV in the wealth declaration because he could not remember the exact date of its signature. “I took the 28,000 euros under contract with Realitatea TV. What do you want with me? I am no longer a public person. The contract is confidential, if you want details call Realitatea TV. I signed it a year and half ago and is still valid,” said Păunescu for Hotnews.<sup>75</sup>

71 “Decision no. 187 of April the 3<sup>rd</sup>, 2006 on Regulatory Code of audiovisual content”, Cna.ro, April 3<sup>rd</sup> 2006.

72 “What is the colour of the RTV black list”, Dragos Vasile, Academia Catavencu, September 18<sup>th</sup>, 2009.

73 “White cat, black cat in RTV”, Catalin Tolontan, Tolo.ro, September 11<sup>th</sup>, 2009.

74 “Head of CNA: The black list of Realitatea Tv becomes inapplicable in campaign”, Ziare.com, September 14<sup>th</sup>, 2009.

75 „Senator-poet rate: Adrian Păunescu has received 28,000 euros from Realitatea TV,” L. Pârnu, HotNews.ro, July 22<sup>nd</sup>, 2009.



## Self-regulation

The media organizations reacted to all these mass-media events through self-regulatory efforts. Among these, there have been appeals, position-takings and adoption of a single code of conduct<sup>76</sup> based on current codes, including the codes of the Convention of Media Organizations (CMO) and of the Romanian Press Club (CPR). Over 30 Romanian press organizations contributed to the drafting of the Single Code, mainly CMO organizations, Mediasind and Romanian Journalists' Association (AJR). The process is a follow-up of the CMO efforts - an alliance of over 30 organizations nation-wide<sup>77</sup> - in the field of ethical standards' promotion. Also CPR and AJR announced at the end of 2009 that they established a Media Commission to judge the deontological violations of the journalists and media companies which are member of these associations.

The self-regulation measures come in the context of a guild where only half of the journalists know the guides of conduct, and the editorial offices where they work haven't got available, 42% percent, any editorial policy document.<sup>78</sup>

## Conclusions:

- The ethical deviations multiplied in the context of the economic crisis and electoral campaign.
- Frequently, the press was used as an instrument of the political fight, with low resistance from the editorial offices.
- An unprecedented image crisis of the press has been recorded in terms of content quality and public confidence.
- The press was politically polarized during the campaign and the two sides blamed each other of ethical violations.
- There have been debates and reactions of the guild in relation to the ethical deviations. A Single Code of Conduct has been adopted and a Media Commission has been established.

## Recommendations:

- Read and assimilate the provisions of the codes of professional ethics you adhered to.
- Consider each case separately and avoid copying the competitors' reactions.
- Do not participate to advertising contracting or blackmail actions.
- Do not reproduce or comment rumours as information and news. Introducing rumours in the information flow means their validation (particularly when presented by the news channels).

- Imposture - Promote proficiency, promote relevant persons in the fields under discussion, the persons recommended by their professional CV, their previously demonstrated competency and the specialization.
- "On service" commentators - There are neither multilateral developed journalists nor politicians, which are skilled and able to produce pertinent information for any discussed field.
- Screen writers versus Journalists - Visibly specify the journalists and demarcate them from entertainers, infotainers, commentators, analysts, fortune tellers or "scenario creators". Do not mix the categories. For permanent or quasi-permanent guests, post their CVs online and specify whether and by whom they are remunerated for the televised analysis.
- Define the guest's relation with the person or subject under debate (lawyer, employed journalist, business partner, etc).
- Support the division of state powers, do not set yourself up as judges, and do not exercise any pressure on the courts to come to a certain decision.
- Criticize the administration based on facts, documents, concrete situations, through well-documented journalistic investigation materials.
- Say no to press campaigns imposed by the financial, political interest or of any other interest of the employer.
- Agenda setting - Promote more diversity in the exposed subjects. Do not let the politicians to daily set your agenda and the subjects to discuss and re-discuss endlessly.
- Balance versus panic - Avoid using images that may induce panic to the population. Have a balanced speech! Particularly, in case of stories about natural disaster occurrence. No tragic attitudes, no irrelevant and alarming questions, no images promoting panic when covering a subject.
- Information without source reference - Specify the source of the quoted information from Internet.
- Consolidate the professional organizations. If the guild fails to self-regulate, then the politicians will attempt to intervene from outside.

<sup>76</sup> See code text in Annex (available only in the electronic version of the report).

<sup>77</sup> See the website [www.organizatiimedia.ro](http://www.organizatiimedia.ro).

<sup>78</sup> "Selfregulation of the Romanian press ", ActiveWatch, October 23<sup>rd</sup>, 2009.



## 8. The public television

During 2009, the public television has been in the spotlight, both through various internal events (lawsuits filed by employees, public calls of journalists, political imbalance penalties made by the National Audiovisual Council, etc..) as well as through some multiple events involving external institutional actors (unsuccessful attempts to reform the law of public television in Parliament<sup>1</sup>, controversial public statements made by politicians, etc.). In what follows some of these events are presented:

### 8.1. POLITICAL PRESSURES. POLITICAL BALANCE<sup>2</sup>

#### A PDL deputy: TVR „does what we say not what others want”

On February 2<sup>nd</sup>, during the Permanent Bureau of the Chamber of Deputies meeting it was discussed the issue of setting up a TV studio of the Parliament. In this context, Cezar Preda, PD-L Deputy, (at that time general secretary of the Chamber) intervened and said: ”Come on, Madam President, we should direct our strategy so that this public television should come and do business here, for the Parliament members and make the studio with its money and present the work of the Parliament as we want, because eventually it is a public television *and does what we say, not what others want.*”<sup>3</sup> The statement is relevant to demonstrate how some politicians perceive the mandate of the public television. In the same context, his party colleague, Mircea Toader (parliamentary group leader of PD-L), explained for HotNews.ro why the public television has a duty to provide also “good” news from the Parliament: ”Do you come as a journalist and write positive about the commissions activity? No. *Fine, I want you to write well.*”<sup>4</sup>

Subsequently, Cezar Preda sent a press release that attempted to explain his statement: ”I regret the way in which my intervention within the Permanent Bureau of the Parliament has been understood on the TV. I had never maintained opinions designed to restrict the right to free expression and I have generally a good relationship with the media. Starting from the opinion of the vice-president Adrian Năstase, to invest in a TV studio of the Chamber of Deputies, I maintained that it would be easier and cheaper to ask TVR as one of its channels to broadcast from the parliament, since anyway *TVR has a special relationship with the Parliament.*”<sup>5</sup>

#### Sorin Burtea vs. The „Turcan” project

In June, the National Audiovisual Council has sanctioned the public television with a fine of 2500 lei for a show that has debated the ”Turcan” project aiming to amend the

law defining the operations of public service of radio and television.<sup>6</sup> The TV show ”Special Edition”, moderated by Sorin Burtea, was broadcasted by TVR 1 on June 16<sup>th</sup>. Out of 8 people participating in the program, only one supported, partially, the opinion that the changes in the law on public services might be appropriate.<sup>7</sup> CNA has fined the public television for lack of balance and impartiality and for not contributing to the free formation of opinions by presenting all points of view under discussion. At that time, Sorin Burtea was a member of the Board of Directors of the Romanian Society of Television, designated by the employees.

#### Liviu Dragnea at the Euro parliamentary elections

The day before the Euro parliamentary elections on June 6<sup>th</sup> within the heading theme of the day at *Telejurnal it was programmed an interview on sports, linked to a football game scheduled that evening. In the last minute, the planned guest was changed with Liviu Dragnea the vice president of the Social Democratic Party. According to information in the press, Mihai Constantin, the moderator of that show section would have received the questions he had to ask to the PSD vice-president by e-mail and telephone*<sup>8</sup>. Also according to press ”the change on the last minute of the interviewee, to the news station run by Alexandru Sassu was a <<command coming from above.”<sup>9</sup> We remember that in 2007 Alexandru Sassu got the SRTv leadership from the vice-president of the Social Democratic Party position.

Dorin Muntean and Doina Georgescu the producers of the tv show, as well as Adriana Gulea the news editor have refused to sign the show, claiming the conscience clause from the Status of the Journalist from TVR. According to information published in the press, the producers and the editor were threatened by Mădălina Rădulescu, the interim head of TVR news, in front of other people that their working day could be cut or they may be moved to other posts<sup>10</sup>. Mihai Rădulescu, the news presenter at *Telejurnal joined as a witness to the complained that they have made it to the Ethics Commission of the public television.*

The National Audiovisual Council has penalized TVR 1 with a citation for this show, because it violated the Regulatory decision of the campaign for the Euro parliamentary elections, according to which ”24 hours before the vote starts until the vote ends it is prohibited the broadcasting of election spots<sup>11</sup>. The Council considered that ”the initiative of Mr. Mihai Constantin to address the issue of the election the evening before their conduct was not consistent with the legal provisions on conduct in the audiovisual sector during the campaign for election of the Romanian members in the European Parliament<sup>12</sup>.

1 See the chapter „Legislation” of the present report.

2 See more political pressures cases in the chapter „Electoral slippages” of the present report.

3 See the transcript of the meeting of the Permanent Bureau of the Chamber of Deputies from February 2<sup>nd</sup>, 2009.

4 ”Another PD-L deputy dreams as much propaganda on TVR: Write in a positive way from the commissions? No. Well, I want they write in a positive way,” Luminița Pârnu HotNews.ro, February 6<sup>th</sup>, 2009.

5 ”Another PD-L deputy dreams as much propaganda on TVR: Write in a positive way from the commissions? No. Well, I want they write in a positive way,” Luminița Pârnu HotNews.ro, February 6<sup>th</sup>, 2009.

6 CNA decision no. 702, from June 23<sup>rd</sup> 2009.

7 See more about the „Turcan” project to amend the public radio and television law in the „Legislation” chapter of this report.

8 ”Political pressures on TVR newsmen: sign or I fire you!” Ramona Drăghici, Cotidianul, June 17<sup>th</sup>, 2009.

9 ”Alexandru Sassu receives three hard blows from inside the TVR”, Costin Ionescu, HotNews.ro, June 25<sup>th</sup> 2009.

10 Ibidem.

11 CNA decision from June 11<sup>th</sup> 2009.

12 CNA decision no. 653 June 11<sup>th</sup> 2009.

TVR has challenged in court the CNA decision. The case is pending.

The Ethics and Arbitration Commission from TVR decided that the respective show "is also contrary to the ethical norms assumed by the journalists of the public television" and that "Mădălina Rădulescu's editorial decision to invite the representative of only one party to a debate that was meant to treat <<the frictions within the coalition>> has created the preconditions for the nomination by Mr. Liviu Dragnea, in a critical context, of some ministers from the PD-L, without the possibility of a reply from the government partners."<sup>13</sup> The Commission also stated: "Even if they were not put into practice, the threats made by Ms Rădulescu towards the two journalists that were her subordinates is a form of pressure all the more incomprehensible since it came after the National Audiovisual Council condemned SRTv for the consequences of an erroneous editorial decisions taken by the interim news director, despite the views expressed by her subordinates. Mădălina Rădulescu's attitude is contrary with the rules of conduct stipulated in the Status of TVR journalist (...)"<sup>14</sup>

The Commission has also found that „it is not the first time when the interim director of the news resort to bullying subordinates. A similar incident occurred in March 2008, but then the Ethics and Arbitration Commission's conclusions had been ignored both by the journalist and the SRTv leadership”<sup>15</sup>.

### Dan Nica's case

In October, the National Audiovisual Council sanctioned the station TVR 1 with a fine of 2,500 lei because during the September 30<sup>th</sup> edition of *Telejurnal news, the information related with the dismissal of Minister Dan Nica was presented in an unbalanced manner. The public TV station had presented four statements of PSD representatives expressed directly, in which they accused their coalition partners for the political crisis, without being presented the point of view of any representative of the PD-L, although the opinion of the Liberal Democrat Minister Videanu was presented in the midday newscast. CNA considered that the news has violated the audio-visual legislation*<sup>16</sup>.

### Electoral campaign during Champion's League

On November 24<sup>th</sup>, during a Champion's League football game broadcasted by TVR, the commentators indicate to the 1.8 million viewers the presence in the stadium of Mircea Geoana the PSD presidential candidate and of his counsellor, Cozmin Gușă. "Great match atmosphere. Many VIPs are in the tribunes. Mircea Geoană, the presidential candidate is here. He came to the football game," said the commentator Marian Olaianos. "And Mr. Cozmin Gușă, Ilie Dumitrescu

added. A joke followed about "percentages that increase", from which it was not clear if it was about the percentage of the balls played by Petrescu's boys or those from politics. Journalist Cătălin Tolontan claimed, citing sources from TVR, that the comment was made due to the pressures of some chiefs from TVR following the request of Geoană's counsellor. Cozmin Gușă denied that he had asked such a thing and the commentator did not wish to make any statement.

### Valentin Nicolau accused Traian Băsescu's political pressures

In November, during the election campaign Valentin Nicolau, President of TVR by 2005, said in a telephone intervention to Antena 3 that in 2005: "President Traian Băsescu asked through his adviser Adriana Săftoiu to replace the head of the news department, as a goodwill gesture, and put Rodica Culcer in that place." Nicolau made the allegation in the context of Traian Băsescu's affirmation according to which in his mandate he left the press free<sup>17</sup>.

Nicolau said that he refused the order, so that Traian Băsescu has started to attack him publicly.<sup>18</sup>

Subsequently, Rodica Culcer won the contest for the position of chief of the news department.

### The office for Classified Documents

In June 2009 following CSAT's request, SRTv has reinstated the Classified Documents Office (an office which existed during the communist period and had been controlled by the Securitate). This security structure was re-established during Valentin Nicolau's mandate, but was subsequently disbanded by Tudor Giurgiu.

The board members of SRTv have rejected the setting up of the office. Maria Țoghină, president-director general of the Romanian Radio Broadcasting Company, said for the newspaper Cotidianul: "Although I was informed by some Radio advisers on the compulsory establishment of this department, we considered that such a structure is not appropriate in a Press and public radio institution, in which classified documents are not managed in such a volume to justify the establishment of that department. (...) The issue came to the attention of the Board of Directors as a result of CSAT decision no. 031 of 12.03.2009"<sup>19</sup>.

Following the request from Cotidianul, the Department of Public Communication of the Presidential Administration stated: "The Supreme Council of National Defence has not expressly requested the Romanian Radio Broadcasting Company to establish a department for handling classified information. (...) if the Romanian Television and the Romanian Radio Society are holding such documents, i.e. classified, then are required by law to establish such special compartments"<sup>20</sup>.

Also following the request of Cotidianul newspaper, public television's Press Office mentioned: "SRTv has a division dealing with the management of classified documents type received from other institutions. This

13 Conclusions of the Ethics and Arbitration Commission sittings of days of June 25<sup>th</sup>, June 30<sup>th</sup> and July 6<sup>th</sup> 2009 - [http://www.tvr.ro/articol\\_organizatie.php?id=65973](http://www.tvr.ro/articol_organizatie.php?id=65973).

14 Conclusions of the Ethics and Arbitration Commission sittings of days of June 25<sup>th</sup>, June 30<sup>th</sup> and July 6<sup>th</sup> 2009 - [http://www.tvr.ro/articol\\_organizatie.php?id=65973](http://www.tvr.ro/articol_organizatie.php?id=65973).

15 Conclusions of the Ethics and Arbitration Commission sittings of days of June 25<sup>th</sup>, June 30<sup>th</sup> and July 6<sup>th</sup> 2009 - [http://www.tvr.ro/articol\\_organizatie.php?id=65973](http://www.tvr.ro/articol_organizatie.php?id=65973).

16 See CNA decision no. 867/06.10.2009.

17 „Former TVR president: Băsescu has asked me to change the News director with Rodica Culcer”, Ziare.com, November 11<sup>th</sup> 2009.

18 Ibidem.

19 "Sassu to stealthily recover the <<Secu>> TVR cell" Cristian Oprea, Cotidianul, June<sup>th</sup> 2009.

20 Ibidem.

structure also manages securing ORNISS certification for events that require such a document.

Fears were expressed that such a structure is not only unnecessary but also dangerous: I think such an office would not be anything else than a form of censorship on grounds of national security. (...) we are firmly against such an initiative and congratulate the CA's public radio for its decision,"<sup>21</sup> said Mircea Toma, president of the Media Monitoring Agency, interviewed by the Cotidianul newspaper.

SRR has confirmed the decision.

### Postponing of the vote on the annual report of TVR

The voting of the annual report submitted by SRTv to the Parliament in spring 2009 was first delayed until the autumn of that year and thereafter until the spring of 2010, when the report was rejected by Parliament and, therefore, the Board was dismissed. By law<sup>22</sup>, the SRR and SRTv are required to submit the "annual report" based on certain timetable, and the commissions for culture, arts and media have the right to request these reports. It is not specified in the law the obligations the Parliament has related to the term for analysing and deciding related to these reports. In practice, the following system is followed: SRTv and SRR submit an annual report within the requested time frame and the Parliament, (the Commissions and then within the plenary meeting) vote according to circumstances or political interests the removal or retention of the leadership to the two autonomous public services. For example, in 2005, when there were dismissed Nicolau's board at TVR and Seuleanu's board at the SRR, the SRTv and SRR reports on three years, 2002, 2003 and 2004 were passed. Then, in 2007 (the dismissal of Giurgiu's board) the SRTv reports for 2005 and 2006 were voted.

## 8.2. MANAGEMENT PROBLEMS

### Audiences and financial performances

SRTv general audience stations declined steadily during 2009, both in absolute numbers (ratings - total number of viewers at a time) and in comparative terms (share - percentage of total market share respectively). If in the case of the first indicator (rating) it is about a general phenomenon and decreasing total number of TV viewers throughout the market (i.e. those who open the tv-sets), in the case of the second (share) is about a loss of competitiveness. For example, TVR 1 descended from the positions 4-5 to the positions 8-9, and TVR 2, from 7-8 to 12-13<sup>23</sup>. The establishment of two new television channels, TVR 3 and TVR Info respectively and of an experimental one (TVR HD), did not influence the decline in terms of aggregate ratings, but was a managerial decision having a financial impact during a year when there were already

obvious the effects of the generalized financial crisis, both nationally and internationally.

In 2009 the financial losses were RON 48 millions<sup>24</sup>.

### Management-level dismissals. Interim

After Alexandru Sassu became the President General Director of TVR several people having management positions within the institution lost their jobs.

Cezar Ion, whose position as chief of Editorial Production Department of TVR was restructured in June 2008 by a board decision, won in the 2009 the process he opened against the institution<sup>25</sup>. Cezar Ion said that his post was restructured as a result of his criticism towards the poor managerial decisions. Although both of Ethics and Arbitration Commission of the TVR and the institution's Board have agreed to a large extent with the criticism of the journalist,<sup>26</sup> Cezar Ion was removed following a facade reorganization. Later, Cezar Ion won in court the trial against TVR.<sup>27</sup>

Rodica Culcer is also in litigation with the Romanian Television after his position as TVR news director has been redesigned, consequently losing all editorial functions.<sup>28</sup> Instead, as a head of the news direction an interim director has been appointed, a situation criticized by the TVR journalists in an appeal (see below). Alexandru Sassu President Director General said that it was illegal to organize a contest to fill this position, since the Romanian Television had a process with Rodica Culcer.<sup>29</sup> In March 2010 TVR won the trial with Rodica Culcer.

Lucian Ionică sued, SRTv, after being dismissed from his position i.e. director of the TVR Territorial Studio from Timișoara. Lucian Ionică considered that his removal from office was abusive<sup>30</sup> and had a political motivation<sup>31</sup>. He also filed a memorandum to the Parliament. In response to this memorandum, TVR Timișoara working union held a press conference criticizing the managerial work of Lucian Ionică<sup>32</sup>. Afterwards, an interim director was appointed for TVR Timișoara.

24 Raportul anual al SRTv pe 2009. "Raportul TVR: Deficit de 48 milioane de lei in 2009. Publicitatea SRTv in 2009: 8,8 milioane euro, din care 3.300 euro din publicitate online si 17.100 euro din teletext", de V.O. HotNews.ro, 16 aprilie 2010.

2009 Annual Report of SRTv. „TVR Report: Deficit of 48 millions lei in 2009. SRTv advertising in 2009: 8.8 million euros, of which Euro 3.300 from online advertising and 17.100 from teletext,” the VO HotNews.ro, April 16<sup>th</sup>, 2010.

25 Details about Ion case can be found in the chapter "Labour disputes" of this report and in the chapter with the same name of the report „Press freedom in Romania - 2008” - www.activewatch.ro.

26 See the conclusions of the Ethics and Arbitration Commission meetings dated 12, 14, 25, 26 March- www.tvr.ro

27 See the chapter Labour disputes of this report.

28 Details about the Culcer case can be found in the chapter Labour disputes of this report and in the chapter having the same title of the report „Press freedom in Romania - 2008” - www.activewatch.ro.

29 UPDATE lawmakers reject the TVR activity report for 2008. Alexandru Sassu, dismissed from the TVR management, accuses Boc of political pressure. The public radio report was adopted” L.P., C.M. HotNews.ro, March 30<sup>th</sup> 2010.

30 Details about Ionică case could be found in the chapter „Labour conflicts” of the present report.

31 „Raising tensions within the public television. TVR challenges the CNA decisions, working union members get involved,” Costin Ionescu HotNews.ro, June 30<sup>th</sup>, 2009.

32 „Raising tensions within the public television. TVR challenges the CNA decisions, working union members get involved,” Costin Ionescu HotNews.ro, June 30<sup>th</sup>, 2009.

21 „Ibidem.

22 According to law 41/1994, Art. 2 and art. 46, in conjunction with the Constitution, Art. 31. („Public radio and television services are autonomous. The organization of these services and parliamentary control over their activities are regulated by organic law. - Art. 31 points. 5 from the Constitution.)

23 See also the TVR report on 2009, posted on pe <http://www.tvr.ro/files/66923.pdf>.



## Public calls of the employees for reform

One noticeable aspect in the recent years was that voices from inside TVR has been increasingly heard, voices that have made public the issues the institution is facing and called political parties to promote the reform of this institution.

In March 22<sup>nd</sup> 2009, 28 journalists from TVR launched a call to the Parliament and the political parties in order to adopt in an emergency procedure a new organizing and operating SRTv law . "The operating legal framework in which SRTV functions is so lax that there is no obstacle in the way of arbitrariness, abuse and political orders, no protection for honest journalists against arbitrary sanctions, no rule that prevents facade reorganizations, which may always be purges masked by subjective criteria. We note also that excessive political control over the Board of SRTV and the absence of sound professional criteria, for selection and validation of board members, have encouraged the improvisation and perpetuation of the provisional and have discouraged the development of a long-term strategy of the SRTv, which would have ensured the autonomy of the public service television, as provided by law," it is specified in the call. The document resumed the principles of the bill proposed by Raluca Turcan<sup>33</sup> and urged parliamentary parties to pay attention to this new bill and consult with employee representatives from the SRTv and the civil society in order to pass a balanced and efficient law, that should be the base of the institutional reconstruction of SRTv.

The 28 initiators were joined by 250 other journalists out of the total of 530 journalists hired by SRTv .

On July 1<sup>st</sup>, 22 journalists (this time only within the news department of TVR) submitted a memorandum to the TVR president-general director Alexandru Sassu and to the board members asking for a competition for the appointment of the news director at TVR. The letter noted that the news department was headed at that time, for nearly two years, by the interim director Mădălina Rădulescu. The signatories also mentioned that within the public television there were at least seven other directors provisionally appointed.

Signatories of the letter also stated that, under the leadership of Mădălina Rădulescu, TVR news are adrift, the biggest problem being the lack of professionalism reflected in the catastrophic *Telejurnal* audience, that there is no editorial policy to reflect the public service mission of TVR, that the uncomfortable topics for politicians are avoided, that the team is not motivated and has de-professionalized and there is no interest in addressing new topics - most "news" production boils down to film fairs, symposia, meetings and press conference ( ...) we wait for news agencies and other tv channels to find out what we should film, that only those that respond to commands are promoted, that the few competitions to fill jobs within the news department are a sham and are marked by irregularities that led to abuses.<sup>34</sup> "Even if not all employees of the news department have the courage or interest to say it bluntly, proven professional adrift and

lack of an audience for the *Telejurnal* really make a clear picture for everyone: we're on a completely wrong way, on a dead end. We can't keep silent, with the risk of being subjected to a series of skirmishes, tougher, threats and retaliations."<sup>35</sup>

Two months later because their demands were not addressed by the management of TVR, the journalists, under the protection of the Law no.571/2004 addressed the Commission of Culture, Arts and Media of the Parliament. Hearings were held in a joint session of both commissions from the Chamber of Deputies and Senate. During discussions, the journalists present gave examples of important topics missing from the *Telejurnal*'s agenda. An example was the scandal which involved Romanian President Traian Băsescu, and his brother - approached only three days after being presented by commercial televisions<sup>36</sup>. Another example was the news about Radu Mazăre, Mayor of Constanța and prominent member of the PSD, which had appeared in public dressed in a Nazi uniform<sup>37</sup>. On this issue, the producer Anca Lăzărescu commented during the hearings: "A story that has gone around the world has not appeared on TVR. The official explanation: there were no pictures."<sup>38</sup>

The Culture Commission of the Senate recommended to the President General Director to organize a contest for the news director position, although Alexandru Sassu asserted that this was not possible as long as a process with Rodica Culcer was on the way. "According to the Culture Commission, the pending trial can not block the functions of the public television," said Radu F. Alexandru, Senator PD-L, member of the Culture commission from the senate.<sup>39</sup> At the time of writing this report, Mădălina Rădulescu was still in office.

Some of these reformist journalists formed in November, The Public Television Journalists Syndicate (SJTP). According to the website of this organization, the union was formed "as a result of the ignorance coming from the TVR administration of the obligations towards this professional body, as well as a response to the frequent violations of journalists' rights as are set out in Law 41/1994, the Collective Labour Agreement, The Organisation and Functioning Regulation of TVR and The journalist status from SRTv."<sup>40</sup>

Among the directions in which this union aims to act it was mentioned the following: consistent and uniform compliance with regulations and internal rules related to journalists, regardless of their duties, establish and implement transparent selection and performance criteria for the tv programmes, establishing the binding nature of the reports and resolutions of the Ethics and Arbitration Commission in cases of violations of the provisions of the Statute of TVR journalist and the implementation of administrative measures accordingly, regardless the position of the guilty one; eliminating interim management positions and employment through fair and transparent competitions, establish performance management criteria

35 Letter addressed to the President General Director.

36 "TVR President, called to the Senate ", Adevărul, September 9<sup>th</sup> 2009.

37 "TVR President, called to the Senate ", Adevărul, September 9<sup>th</sup> 2009.

38 "TVR President, called to the Senate ", Adevărul, September 9<sup>th</sup> 2009.

39 „ The Senate Culture Commission recommends Sassu to organize a contest for the director of TVR News position," the LP HotNews.ro, September 22<sup>nd</sup>, 2009.

40 www.sindicatuljurnalistilor.org

33 See in this report the chapter on legislation.

34 „Uprising at TVR news: more employees require the replacement of the Interim director Mădălina Rădulescu," Costin Ionescu HotNews.ro, July 2<sup>nd</sup>, 2009. The letter to the President General.



and their mandatory inclusion in all contracts related to management functions<sup>41</sup>.

### 8.3. THE DE-POLITIZATION AND THE REFORM OF THE PUBLIC TELEVISION

Periodically, especially around elections, politicians promise the depoliticization and reform of the public radio and television. It is still uncertain how this process could occur in the absence of an independent audit of the situation in the public radio and television, audit that would identify the real problems faced by these institutions and propose measures for strengthening their independence and their effectiveness in meeting their public service role.

A solution for de-politization was identified in the reform of the law of the Romanian Radio Broadcasting Company and the Romanian Television Society. Before winning the 2004 elections, the D.A. Alliance has promised the reform of the law. But once installed, the new power decided that before the law change, it is better to dismiss the old leaderships considered to be obedient to the old power and install new leaderships at TVR and SRR. The result was that the law reform was not done for over six years<sup>42</sup>. Instead, in 2007 the management position of the public television was filled for the first time in the history of the institution, including the Communist era, by a politician with an important executive position within a Party (the executive secretary in charge of the communication and political marketing problems of the Social Democratic Party) - Alexandru Sassu. The arrangements for the position of President General-Director of SRTv was made following a political bartering between PSD and PNL, following which Răzvan Popescu became president of the CNA nominated by the Liberal Party. After being installed at the head of TVR, Alexandru Sassu resigned from the political position held in the PSD, following the protests of civil society associations and organizations, which accused the re-politization of the public media institutions.

In 2010, after the presidential elections from 2009, the Parliament has rejected the 2008 annual report of the public television, leading automatically, according to the law, to the dismissal of the Council of Administration (CA). Within this context, Alexandru Sassu would be President-General Director until the appointment of a new CA. During the Parliament debates, Alexandru Sassu has accused the fact that the present government puts pressure on the public television: "Here is the paper, the paper of the prime minister who asks me that every Wednesday during the prime-time to be on the public channel. This is the de-politization."<sup>43</sup>

Ironically enough, Alexandru Sassu also declared, "the process of de-politization does not mean the change of law nor the change of people, or of the Board, but it primarily means a change of mentality of those that have the power."<sup>44</sup>

41 Ibidem.

42 See more about efforts to amend the law to public service broadcasting in the section „Legislation” of this report.

43 UPDATE lawmakers reject the TVR activity report for 2008. Alexandru Sassu, dismissed from the TVR management, accuses Boc of political pressure. The public radio report was adopted” L.P., C.M. HotNews.ro, March 30<sup>th</sup> 2010.

44 Ibidem.

With the dismissal of the Board, the political negotiations to appoint the new members were resumed. Emil Boc said that the reform of the SRR-SRTv law is still a priority for the PD-L and the purpose is to depoliticize the institution by amending the law, so that all Board members are nominated by the civil society. PSD said, through the President Victor Ponta that will also support the de-politization of the public radio and television.

The reform of the SRR-SRTv law including the provision that the appointment of the the Board members to be made by nominations coming from the civil society and not from the parties will not solve the problem of politicization as long as in the law there are no clear stipulations related to the competence criteria for the members of these Boards. A broader analysis of the need to reform the SRR-TV law and of its history could be found within the "Legislation" chapter of this report.

It remains to be seen whether the reform of public services will ever be possible in Romania, where political parties so far have shown availability to support this process only in statements, while in fact they negotiated and divided politically the leadership of these institutions. As noted by Răzvan Martin, from ActiveWatch - Media Monitoring Agency: "In this absurd battle, each party is both executor and victim, depending on the place on the political map. Is funny to see how almost all parties oppose any change, hoping that their turn to power will come and, as demonstrated by experience, to behave exactly like the predecessors whose behaviour they previously condemned."<sup>45</sup>

### Conclusions:

- The public television is still vulnerable to political pressures.
- The main problem in TVR is not any more the politization but rather the de-professionalization which results from politization.<sup>46</sup>
- More than ever, in 2009 there were public alarm signals drawn by SRTv journalists.
- The law reform and institutional reform are essential for de-politization of public television and to assist it in fulfilling its public service mandate.
- The private media has put pressure on TVR leadership and the political parties. This was a major obstacle that prevented abuses.
- The control of the society over the two institutions could be achieved only through transparent decisions aimed at spending public money for programs acquisitions and investments.
- The electorate has shown that it can not be manipulated, regardless of financial or political efforts because there are alternatives sources of information.

45 „Who is interested with the reformation of the public media?”, Răzvan Martin, Dilema Veche, June 2009.

46 Has declared for the present report Alex Costache, journalist within the news department.

## Recommendations:

- The adoption of a new functioning law for the public radio and television.
- The appointment of a new board based on competence criteria and not based on political negotiations.
- Triggering an institutional reform based on the list of issues and the claims made public by the SRTv journalists.
- The involvement of civil society representatives in the boards of the public services of radio and television as a first step towards guaranteeing the respect for public interest in the work of SRR and SRTv.
- To employees: Protest and inform publicly about the rails and the interference of politicians.
- The public television and the public radio should obtain a full independence from the political scene.

## 9. Legislation

### CRIMINAL AND CIVIL CODE

Although in 2009 the Government imposed to the Parliament the adoption in an emergency procedure of the criminal and civil codes, the entry into force of these laws has been postponed to an indefinite date. As a result, the old civil and penal codes remained in force. Consequently, the insult and the calumny remained criminal offenses punishable by the penal law<sup>1</sup>.

During 2008, the Ministry of Justice elaborated the Criminal Code, Criminal Procedure Code, Civil Code and Civil Procedure Code bills. Various interim drafts of these bills were available on the website of the Ministry of Justice, in 2008. At the beginning of 2009, the Government forwarded all these bills to the Parliament for immediate debate purposes, with the intention of adopting all four Codes until May 15<sup>th</sup>. The non-governmental organizations have blamed the fact that the bills were elaborated without regard for the Law no. 52/2003 on the decisional transparency and there were no impact studies, as well as no other studies and approvals compliant with the Law no. 24/2000 on legislative technique norms. Also, the Codes have been harshly criticized for their content.

As to the matter of the press, the criminal offences regarding the defamation of a person (insult and calumny) have been eliminated from the Criminal Code bill; instead an offence of privacy invasion has been introduced. Furthermore, the Code bill also includes several offences affecting the freedom of speech: the violation of secrecy of correspondence, the discredit of justice, communication of false information, war propaganda and disclosure of secrets endangering the national security. At the last moment, the media organizations have managed to introduce a plea of public interest for the offences concerning the privacy and the violation of secrecy of correspondence, yet, it remains to be seen to what extent this plea will be able to provide a real protection to the journalists.

The Ministry of Justice has amended the Civil Code bill with a series of provisions affecting the work of journalists, without consulting the professional press organizations, as it would have been legally and morally bound to. These provisions governed the right to privacy, personal data protection, the respect due to the deceased, the right of reply and correction. Therefore, the Civil Code drafting Committee set forth provisions for the press completely ignoring the obligation to protect the right to freedom of speech. For instance, there was an attempt to include the print press's compulsoriness to publish a right of reply, compulsoriness considered unconstitutional in the United States and undemocratic in United Kingdom. The Drafting Committee copied the regulations in force from the audiovisual law, but removed from the copied articles those paragraphs detailing the publication manner for the right of reply and which were the results of CNA's [National

Audiovisual Council] understanding of necessity to protect the right to freedom of speech.

The provisions were criticized by the professional organizations of the guild because such provisions, as they were stipulated, restricted the freedom of the press. The guild organizations requested the elimination of most of these provisions. As to the provisions that cannot be eliminated, the organizations requested the inclusion of the plea of public interest and defence by good faith demonstration, two key elements present in the case-law of the European Court of the Human Rights<sup>2</sup>.

During the tough negotiations held in Parliament, the media organizations managed to attain only half of what it should have been amended.

Fortunately, the chapter concerning the right of reply failed on the vote of Parliament. However, a series of other restrictive provisions remained and they will give headaches to the press upon enforcement of the Codes. The chapter regarding the privacy protection is extremely important. Minimum protections for the journalists were included in this chapter with great difficulty but truncately. Also, the possibility to confiscate the circulation of a newspaper or the possibility to prohibit the publication of an article has been removed (in such matter, the grounds of the media organizations were that the censorship was prohibited by the Constitution, grounds objected by the Drafting Committee which stated that the censorship was possible for the exceptions from the par. 6, 7, 8 of Art. 30). The new Civil Code introduces however the option of a temporary prohibition of publication. It is not clear how this will be enforced. It might have positive effects - for instance, the interdiction to rebroadcast the "porn" teacher movie - but it might have severe adverse effects by prohibiting the publication of certain enquiries broadcasted in episodes.

### AUDIOVISUAL LAW

In November 2009, the Parliament adopted the law amending the **audiovisual law**<sup>3</sup>. Hence, the Parliament adopted the Ordinance for amending the law of audiovisual<sup>4</sup>, a normative regulation which had been adopted in December 2008 by the Tăriceanu's Government, at the eleventh hour, just before handing over the mandate to the Boc's Government. The Ordinance provided for a series of beneficial amendments to the audiovisual law and also a series of amendments against which the market observers showed discontent. Therefore, the Ordinance introduced a series of absolutely necessary amendments for the conversion from analogue television to the digital television, such as: the redefinition of terms used in the market (audiovisual media services, linear audiovisual media services, on-demand audiovisual media services, audiovisual commercial communication, etc.), the enactment of the rules allowed by the Directive for product placement and relaxation of the length and placement of advertising clusters.

<sup>2</sup> For more details on the code drafts, see [www.opriticodurile.ro](http://www.opriticodurile.ro), the campaign website of a coalition of NGOs that have campaigned against the adoption of these draft regulations, without a thorough debate both in Parliament and outside.

<sup>3</sup> Law no. 333 of 22 November 2009 to modify the audiovisual law no. 504 of July 11<sup>th</sup> 2002.

<sup>4</sup> Government Ordinance no. 181 of December 3<sup>rd</sup> 2008.

<sup>1</sup> For a detailed analysis of the implementation of the articles of the Penal Code affecting freedom of expression see "Legal Guide for Journalists - 3<sup>rd</sup> edition, published by ActiveWatch - Media Monitoring Agency, authors: Monica Macavei, Adriana Dăgăliță, Dan Mihai; Bucharest, 2009; [www.activewatch.ro](http://www.activewatch.ro).

Also, the Ordinance introduced a better defined transparency obligation of the shareholding and management structures and financial results of the broadcasters to the public. The latter provision, concerning the financial results (financial-accounting balance sheet, as well as the profit and loss account), was supported by the National Audiovisual Council (NAC) members and by the watch-dog organizations' members on the basis of the principle that the television viewers and radio broadcasters have the right to know the economic and legal status of the media institution broadcasting the information. This provision was a minimal transposition in law - the first of its kind in the last 20 years - of Art. 30 par. 5 of the Constitution providing that the "the law may impose upon the mass-media the obligation to make known its source of financing". Unfortunately, this provision has been removed by the members of Parliament under the pressure of the media companies. Art. 48, in its final form, requires the broadcasters to publish information on the shareholding structure, at the level of legal and natural person, partner or shareholder holding more than 20% of the share capital or voting rights, the governing bodies, including the editorial management and the list of the publications edited by the relevant legal person and the list of the other provided programme services. A simple examination at the beginning of 2010 showed us that only the public television and one of the commercial televisions had published a part of such data on their websites.

A provision introduced by the Ordinance in 2008 and maintained by the amending law adopted by the Parliament is that the digital broadcast licences should be granted automatically to the operators holding an analogue broadcast licence and not as a result of a contest, as previously agreed during similar debates held by NAC in 2006 ("market opening"). Furthermore, the multiplex operators are to be selected by mutual agreement of the radio stations broadcasting on each multiplex, and not by tender.

Upon the request of the broadcasters, the 2008 Ordinance annulled the article 44(9) providing that "A natural or a legal person may be an investor or majority shareholder, directly or indirectly, of a single audiovisual communication company, and such person may hold maximum 20% of the share capital of other audiovisual communication companies." The only anti-monopoly provision maintained by the law is set forth in the paragraph 6 of the same article 44: "It is considered that a natural or legal person holds a predominant position in public opinion formation if the weighted audience quota of the programme services assigned exceeds 30% of the significant market". This amendment, requested by the broadcasters based on the necessity to allow the market development, has been criticized by the watch-dog organizations which asserted their fear that the market pluralism would be affected by the development of actors acquiring monopoly positions.

Another significant change entailed by the amendments to the audiovisual law is the increased quantum of penalties that NAC may apply to the broadcasters, from the minimum penalty of 2,500 lei and maximum penalty of 100,000 lei, to the minimum penalty of 5,000 lei and 10,000 lei respectively

and the maximum penalty of 200,000 lei.

The European Commission initiated two infringement procedures against Romania in 2009, accusing the lack of independence of the Communication **Regulatory Authority** and the fact that the Ministry of Communications had regulatory duties and, at the same time, was a shareholder of Romtelecom and Radiocom.

In order to stop the infringement procedure, the Government adopted an Emergency Ordinance (no. 22/2009), at the beginning of March, for establishing a new telecom regulatory authority, ANCOM. Pursuant to the Ordinance, ANCOM is under the parliamentary control, as its president is appointed by the two chambers of the Parliament and not by the President of Romania<sup>5</sup>. The management team is to be nominated by presidential decree, upon Government's proposal.

The Ordinance was quickly adopted by the Chamber of Deputies, but, since May 2009, it has been blocked in the Senate. The Ordinance was listed on the daily agenda of the Senate's panel over 20 times, but it failed to be approved<sup>6</sup>.

The two above situations are relevant for the **process of conversion to digital television**, a process Romania committed itself to complete until 2012. The first step in this process is licence granting to the multiplex operators - digital broadcast networks.

Cătălin Marinescu, the President of ANCOM, stated that the winning operators of the first six multiplexes (out of eight) would be established until the end of the third quarter of 2010<sup>7</sup>. The national strategy for conversion to digital television, approved by the Government in October 2009, provided that the first two digital multiplexes (through which the digital signal of 14 TV stations will be received free of charge) should be granted until the end of 2009.

In the beginning of 2010, the Government set the fee for acquiring a multiplex operation licence to 2.5 million Euros, in accordance with the margins applied in other European countries.

Radiocom (SNR), the company whose sole shareholder is MCSI, is considered the most prepared operator in Romania for the terrestrial digital signal transmission. Radiocom plans to operate 3 of the 6 digital multiplexes and states that, in order to cover 95% of the Romania's population, will have to invest 60 million Euros<sup>8</sup>.

A question appears about the way this endeavour of conversion to the digital television will be supported financially. The implementation of the new system will have an impact on the cable companies. Consequently, the cable companies believe that, if the TV stations pay a fee for rebroadcast via digital multiplex, it will be required to

5 See an interesting decision of the European Court of Justice on the independence of public authorities in "ECJ's case law: The independence of Data Protection Authority", by Bogdan Manoli, March<sup>12</sup>, 2010, [www.legi-internet.ro](http://www.legi-internet.ro).

6 "Meeting Gabriel Sandu - Neelie Kroes: How Romanian authorities try to escape of two infringement procedures against Romania for telecom problems," Adrian Vasilache HotNews.ro, March 25<sup>th</sup>, 2010.

7 "Cătălin Marinescu, ANCOM's chief: the portability, lower interconnection charges and information rights, the main benefits for consumers in 2010," Adrian Vasilache, HotNews.ro, December 24<sup>th</sup>, 2009.

8 5% of Romanian will not enter the digital coverage due to high cost. "Terrestrial digital TV signals free for at least 90% of Romanian in the absence of the analog one impossible to be realised until January 1, 2012," Adrian Vasilache, HotNews.ro, November 12<sup>th</sup>, 2009.



impose also a fee for cable rebroadcast, even if it deals with TV stations which the cable companies already pay for, thus yielding revenues to the owners<sup>9</sup>.

The state will have to find resources to subsidize the set-top boxes necessary for those families who presently receive the signal through terrestrial antenna and are too poor to purchase themselves this device required for receiving terrestrial digital broadcast.

It is estimated that approximately 1.5 million households receive the analogue TV signals, and, among these, only a small percentage are households under the poverty line. The statistical data are however old and inconclusive: "Initially, last year in November-December, a 120 million euro cost was mentioned. Meanwhile, there are 5 countries which have completed the digitalizing process, meaning that the set-top box demand has increased very much hence the price lowering. Currently, the cost may be 60-70 million Euros for all 1.5 million households. Still, a new statistics must be made. These are calculations based on a 2007 statistics; there may be fewer families now"<sup>10</sup>.

Although the switch-off date is the 1<sup>st</sup> of January 2012, it is likely that Romania might not have a functional system until then. Neither the Government nor the broadcasters have launched a public awareness campaign on digitalization subject.

## THE PUBLIC SERVICE BROADCASTING LAW

The Law on operation of Romanian Company of Radiobroadcast and Romanian Company of Television<sup>11</sup> failed to be amended in 2009 either.

The story of the law 41/1994 amending process started immediately after the elections held in 2004, when the non-governmental organizations demanded the new administration to keep its pledge to depoliticize the two institutions, and the amendment of the law enabling such politicization became the main objective. In January 2005, a work group was formed for the amendment of the law 41/1994, a group consisting of representatives of media organizations, trade unions, employees and members of the SRTV and SRR management teams, journalists, representatives of non-governmental organizations. The work group prepared a document, made public in February 2005, a document putting forward a series of recommendations that might have contributed to the guarantee of independence of the two institutions. The set of recommendations was submitted to the Ministry of Culture, Sub-commissions in Parliament, leaders of the political parties and mass-media.

Unfortunately, the new political power decided that, before amending the law, it was better to dismiss the old management boards, considered to have been obedient to the old political power and to appoint new management

boards for SRTV and SRR. Only then, it initiated the law amending process, with multiple initiatives of DA alliance, through Raluca Turcan, but with initiatives of PSD or UDMR as well. After many attempts, in April 2006, a political consensus was obtained between the government and opposition of those days, which adopted in the Chamber of Deputies a bill signed by Raluca Turcan, after a consistent process of public consultation. In May 2006, the bill was debated, with public consultation, in the Sub-Commission of the Senate, where it was forgotten until June 2008, when it was rejected.

At the beginning of 2009, in the new legislature of Parliament, Raluca Turcan reinitiated the law amending process, bringing again under public debate the bill rejected by the Senate in 2008. As a result of the debate, the bill was improved and many of the amendments suggested by the non-governmental organisations and by other experts, who participated to debate, were included in the new bill, which was submitted to the Commission of Culture of the Chamber of Deputies in May. The bill was not a perfect one, but it was the best of the bills drafted so far in terms of protection provided to the two institutions against the interferences of the political environment. Another quality of this bill was the fact that it had fully benefited from the public debate process, as few other legislative initiatives had such opportunity.

The main issue remained however the lack of the political support for this legislative initiative, due to the lack of will of the entire political class to liberate SRTV and SRR from political influence. Raluca Turcan's initiative was perceived by a part of the political environment as an instrument to eliminate the current management boards of SRTV and SRR and to replace them with others favourable to certain political parties, an option which was not agreed by PSD, before presidential elections, as it risked losing TVR leadership<sup>12</sup>. Consequently, in June 2009, the Law was once again rejected by the Chamber of Deputies. PSD, PNL and UDMR voted against it.

In March 2010, the SRTV activity report for 2008 was rejected by the Parliament. Alexandru Sassu, the President - General Manager of SRTV (which came into this position from the Vice-president position of the Social Democratic Party in 2007), as well as the entire Board of Administration ended their mandate this way<sup>13</sup>. By operation of the law, Alexandru Sassu remained the interim General Manager until the appointment of a new Board of Administration.

In such context, it is essential for the leaders of the parliamentary parties to become aware of the necessity to amend the law on SRR/SRTV operation, both due to principled reasons and from a pragmatic perspective, namely to avoid the eternal problems arising from the political control of the two institutions (Boards of Administration of SRR/SRTV which are favourable to the government and are further

9 "Terrestrial digital TV signals free for at least 90% of Romanian in the absence of the analog one impossible to be realised until January 1, 2012," Adrian Vasilache, HotNews.ro, November 12<sup>th</sup>, 2009.

10 Teodorescu Radu, Director control and digitization within the National Audiovisual Council quoted by Adrian Vasilache in "Terrestrial digital TV signals free for at least 90% of Romanian in the absence of the analog one impossible to be realised until January 1, 2012," HotNews.ro, November 12<sup>th</sup>, 2009.

11 Law no. 41 of June 17<sup>th</sup>, 1994.

12 "PSD, PNL and UDMR rejected the reform of the law of the public radio and television. Raluca Turcan: Through the vote that you gave you have signed the sentence that the public television becomes PSD Ltd." Luminița Pârnu, HotNews.ro, June 23<sup>rd</sup>, 2009.

13 "Lawmakers have rejected the activity of TVR report for 2008. Alexandru Sassu, dismissed from the TVR management accuses Boc of political pressures. The report of the public radio was adopted," "L.P., C.M. HotNews.ro, March 30<sup>th</sup>, 2010.

dismissed along with the change of political power, using these public institutions as an election weapon, etc).

The main changes entailed by the Turcan bill, in its last draft, were:

- To eliminate the possibility to remove the Board of Administration (BA), if the Parliament rejects the annual activity report;
- To divide the President General Manager position into President and General Manager positions (separation of the executive position from the strategic decision one);
- Mandatory independent audit, plus the possibility to establish editorial evaluation commission which would evaluate on annual basis the conformation to the public mission;
- To define competency and incompatibility criteria for BA members (however not clearly defined by the bill, which is a fault of the text);
- To define the role and mission as public service and to emphasize the public responsibility of the two institutions to the detriment of the commercial interests;
- To balance the political component in BA by including representatives of the civil society;
- To extend the mandate of BA members to 5 years, so that it would not overlap the elective cycle.

Raluca Turcan continued the Parliament circuit of the bill previously rejected by the Chamber of Deputies in the fall of 2009. As at publication date of this report, the bill is under the debate of the Senate's Commission for Culture, Arts and Mass-media. The Senate is the decisional chamber, as the law on organization and operation of SRR and SRTV is an organic law. In a public statement made in April 2010, the Prime-minister Emil Boc announced the intention of PD-L to promote the depoliticization of the public television and radio station: "Let's not forget the promises made while being the opposition, such as the depoliticization of radio and television station. We have not designated representatives in the administration boards, neither we nor the Romania's President, when we were the opposition, accusing the politicization mechanism of the radio and television. Now that we have the power, we cannot retract what we said and we discussed yesterday with the coalition partners and requested them to keep our promise and to modernize the law currently in the Senate and to find a mechanism able to extract from the political influence these public radio and television services, through mechanisms guaranteeing this."<sup>14</sup> Victor Ponta sustained in its turn that it would support any correct law leading to the actual depoliticization of the public radio and television<sup>15</sup>.

## ELECTORAL LAW

The electoral law which governed the electoral campaign for the Euro parliamentary elections<sup>16</sup> maintained the provision regarding the possibility for the broadcasters

to set a flat tariff per show and time unit<sup>17</sup>. The National Audiovisual Council settled this issue as in the case of the elections for the Romanian Parliament, that is the access of electoral competitors to the electoral debating shows broadcasted on the private radio and television stations was free of charge. The private broadcasters were able to set a flat tariff per time unit<sup>18</sup> for the electoral promotion shows (which did not involved the editorial interference of the radio or television station) and for the electoral spots.

The law on electoral campaign for the presidential elections was modified in this regard compared to the law governing the parliamentary and Euro parliamentary elections. Thus, the provision regarding the possibility for broadcasters to set a flat tariff per show and time unit was removed.<sup>19</sup> The access of the presidential candidates to the public and private radio and television services was equal and free of charge<sup>20</sup>.

The Emergency Ordinance no. 11 of 25/02/2009<sup>21</sup> amended the Law on organization and development of elections for the European Parliament. Therefore art. 25 par. 11 stipulates: "In the electoral office of the polling station, the accredited person may stand in the place set to this end in the polling room by the president of the electoral office of the polling station. The accreditation allows the access of its holder also in the place set up on purpose in the county electoral office, of the Bucharest district or the electoral office for the polling stations set abroad which issued the accreditation." Practically, the Decision 47 of the Central Electoral Office (BEC) was implemented in the law, a decision governing the parliamentary elections held on November 30, 2008. The non-governmental protested against these provisions both during parliamentary and Euro parliamentary elections, but they were unsuccessful succes<sup>22</sup>. The non-governmental organizations declared that designating a special place for the observers and for the press in the polling station limits their capacity to detect a series of frauds slipped into electoral lists, related to the identity of voters and the number of voting bulletins handed to a voter<sup>23</sup>.

This provision was also introduced in September 2009, by Emergency Ordinance, in the Law on Romania's President election<sup>24</sup>. "The good news is that only with very

<sup>17</sup> Art. 18 alin 2 of the law no. 33/2007.

<sup>18</sup> Article 7 of the National Audiovisual Council Decision no. 391 of March 26<sup>th</sup> 2009 on the audiovisual rules of conduct during the electoral campaign to elect the Romanian members of the European Parliament.

<sup>19</sup> See the Law 370/2004 for the election of the Romania President, published in the Official Gazette no. 887 of September 29<sup>th</sup>, 2004, with the subsequent amendments and completions.

<sup>20</sup> Article 2 alin 1 of the National Audiovisual Council Decision no. 853 of 29/09/2009 on the rules of conduct during the electoral campaign for the election of the Romanian President.

<sup>21</sup> Emergency Ordinance no. 11 of 02.25.2009. Published in the Official Gazette, Part I no. 134 of 03.04.2009.

<sup>22</sup> BEC 47/D/6.11.2008 decision was upheld. Ordinance 11 of 25/02/2009 was approved by Parliament by law Law. no 303/2009 published in the Official Gazette 676 of 08.10.2009.

<sup>23</sup> "To the court, if possible! Election's transparency jeopardized by excessive regulations"- release from November 10<sup>th</sup>, 2008 ProDemocrația Association, ActiveWatch - Media Monitoring Agency and the Centre for Independent Journalism: " European elections into opacity! Fairness of the elections for the European Parliament threatened "- press release of ProDemocrația and 13 media organizations from May 5<sup>th</sup>, 2009 (www.apd.ro).

<sup>24</sup> Article 19 alin 10 of Law no 370 of 09.20.2004 was amended by O.U.G. no. no 77/2004 published in the Official Gazette 920 of 09.10.2004

<sup>14</sup> "Boc: We asked the government partners to depoliticize the public television and the radio", Mediafax, April 9<sup>th</sup> 2010.

<sup>15</sup> "Ponta: We'll support the depoliticization of TVR and SRR, although Boc will change his mind in a month", Mediafax, April 9<sup>th</sup> 2010.

<sup>16</sup> See the Law no. 33 of January 16<sup>th</sup> 2007 on the organization and conduct of elections for the European Parliament, with the subsequent amendments.

few exceptions, rather due to supererogation and ignorance than malice and with the intention of hiding something, the presidents of the electoral offices of the polling stations allowed the observing process to be developed normally. However, the existence of these provisions in the law is extremely dangerous, because it renders legal an abuse of the presidents of the Electoral Offices of the polling stations.”<sup>25</sup>

## CYBERCRIME LAW

The Ministry of Justice initiated and put forward for public debate in 2009 the bill for amendment and supplement of Title III “Prevention and fight against cybercrime of the Law no. 161/2003”<sup>26</sup>.

The ministry justified the necessity of these amendments by Romania’s obligation to implement the provisions of the Additional Protocol to Council of Europe Cybercrime Convention<sup>27</sup>, as well as the Council of Europe Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse<sup>28</sup>.

The bill, in its draft amended by the Ministry in September (as a result of the discussions held with non-governmental organizations), includes new offences that might affect the freedom of speech and information.

Thus, the art 51/2 introduces a new criminal offence, punished by imprisonment from 3 months to 3 years, consisting in “dissemination or making available to the public racist and xenophobic materials, in any way, through an information system.” The offence was maintained, although the non-governmental organizations stated that the state authorities already had a law containing sufficient indictments meant to protect the society against fascism, racism and xenophobia (art. 137 Criminal Code, dispositions of the GEO no. 31/2002)<sup>29</sup>. However a plea of public interest was added. Consequently, the action does not represent an offence “if committed in the interest of the art or science, research or education or for debating an issue of public interest”.

Art. 51/3 introduces the offence consisting in threatening through an information system. APADOR-CH argued that this regulation was useless, as it already exists in art. 193 of the Criminal Code, including the legal aggravating circumstance provided for under art. 75 par. 1 lett. c/1 of the Criminal Code (“the offence committed based on race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, beliefs, wealth, social origin, age, disability, non-contagious chronic disease or HIV/AIDS

and O.U.G. no. No 95/2009 published in the Official Gazette 608 of 03/09/2009.

<sup>25</sup> Has declared for this report Irina Bujder, deputy director of the Association ProDemocrația during the two election campaigns.

<sup>26</sup> Law no. 161/2003 regarding some measures for ensuring transparency in the exercise of public dignities, of public functions and in business, prevention and punishment of the corruption, with subsequent amendments and completions.

<sup>27</sup> Done in Budapest on November 23<sup>rd</sup>, 2001 and ratified by Law no. 64/2004, published in the Official Gazette no. 343 of April 20<sup>th</sup>, 2004.

<sup>28</sup> October 2007.

<sup>29</sup> See “APADOR-CH comments on the bill for the amendment and completions of title III” Preventing and combating cybercrime” of the Law. 161/2003 regarding some measures for ensuring transparency in the exercise of public dignities, of public functions and in business, prevention and punishment of the corruption, with subsequent amendments and completions..

infection)

Art. 51/4 introduces the offence of denial, stultification, approval or justification of genocide or crimes against humanity, committed through an information system. APADOR-CH argued that this provision was useless as well, since such actions were already incriminated by art. 6 of GEO no. 31/2002 on the interdiction of symbols and organizations with fascist, racist or xenophobic character and cult promotion of persons guilty for crimes against peace and humanity<sup>30</sup>.

At the beginning of 2010, the bill was still under debate at the Ministry of Justice.

## TRAFFIC DATA STORAGE LAW

In November 2008, the Parliament adopted the Law 298/2008 on the retention of data generated or processed by electronic communication service providers intended for the public or public communication networks, as well as for the amendment of Law no. 506/2004 on processing of personal data and the protection of privacy in the electronic communications sector

The normative regulation functioned as an instrument for the European Directive 2006/24/CE to be implemented in the Romanian law, the Directive which, at the European Union’s level, aims at aligning the laws concerning the obligations of the providers of the electronic communication services for the public or providers of public communication networks regarding the retention of certain data in order to be used in research activities, discovery and prosecution of serious offences.

Pursuant to the Law 298, the following data are to be stored by the phone and internet operators for a 6-month period: data regarding the phone calls, written messages or sent emails, more accurately, the source and destination of communication, communication support and equipment, as well as its location, date, hour and length of communication (the communication content is not included).

According to the law, the data must be made available to the state authorities after the initiation of criminal prosecution, on the basis of an authorization issued by the judge. In case of emergency, when the delayed procurement of the judge’s authorization could cause serious prejudices to the criminal prosecution activities or to the fulfilment of obligations undertaken by Romania through legal documents of international cooperation or as a Member State of European Union, the prosecutor conducting or supervising the criminal prosecution may dispose, by motivated ordinance, the request of data transmission, and the judge’s authorization is to be procured within 48 hours (art. 16, par. 2). In case of the security institutions (SRI, SIE), it was not clear whether a judge’s authorisation was required (see art. 20 of the law).

Several human rights organizations and media commentators criticized the normative regulation, asserting that this was a violation of the right to privacy. The People’s Advocate was requested to notify the Constitutional Court,

<sup>30</sup> Approved with amendments by Law no. 107/2006. For a detailed analysis of how this ordinance governs the freedom of expression see “Legal Guide for Journalists - 3<sup>rd</sup> edition, published by ActiveWatch - Media Monitoring Agency, Authors: Monica Macavei Adriana Dăgăliță, Dan Mihai, Bucharest, 2009; www.activewatch.ro. (available only in Romanian)



but his reply was that he didn't consider this law to violate the Romanian Constitution<sup>31</sup>.

In February 2009, shortly after the law came into force, the Government decided to postpone the implementation of this normative regulation until the end of 2009, justifying such decision that: "by the enforcement of this law, the criminal prosecution activity is highly obstructed and in some cases even blocked; it is challenged the area of offences for which the data retained by the electronic communications providers may be requested; currently, not all providers of services and public electronic communication networks may uniformly guarantee the management of data processing and retention process; not all operators are prepared in compliance with the legal provisions in order to comply with the confidentiality of the requested data, accessed data respectively<sup>32</sup>. However, the Government did not adopt any normative regulation suspending the legal effects of the Law 298/2008.

This issue was partially settled by the Constitutional Court, which, being notified in a common law suit on a constitutional challenge of this law, stated that<sup>33</sup>: the traffic data are the data under the scope of the right to privacy; the state may limit the right to privacy, but only under clearly specified circumstances, and the limitations must be specific not general, the law of traffic data retention subverts the presumption of innocence, the law is not clear enough (the term "connected data" is not defined by the law and enables the commission of abuses, art. 20: "In order to prevent and fight against the threats to national security, the security authorities of the state may have access to the data retained by the providers of the services and public electronic communications networks, under the conditions set forth by normative regulations governing the national security activity" is vague); the principle of personal data protection must be applied and not the principle of retaining such data on a long-term<sup>34</sup>. The issue of Directive implementation remains unsettled by the decision of the Constitutional Court. The Court states that the Directive might be implemented even if its purpose itself was declared unconstitutional, that is the traffic data retention for at least 6 months<sup>35</sup>.

## COPYRIGHTS ON INTERNET<sup>36</sup>

In October 2009, the Romanian Office for Copyrights (ROC) organized a debate in order to discuss a draft of the **Agreement for Development and Protection of Works on the New Digital Networks**<sup>37</sup>. The Agreement aims to establish ways to protect the copyrights on the Internet.

ROC was blamed for lack of transparency in the Agreement debating process, because it organized discussions in

limited groups, instead of launching a broad public debate. APTI declared that the presence of the internet users to this process was extremely important<sup>38</sup>. Another significant criticism of APTI on how ROC approached the subject of copyrights on internet was that: "the role of the public institutions cannot simply be the protection of right holders, as it is necessary for them to support the principle of social balance between the holders' interests, on one hand, and the public's interest of access to culture and creation, on the other hand. We consider ROC mission to be the estimation of the social evolution in order to find solutions for protection of both interests in the digital environment<sup>39</sup>. APTI also stated that an independent and unbiased analysis of the Romanian, European and international situations was required in relation to the copyrights on Internet<sup>40</sup>.

The current draft of the Agreement, not yet adopted, is available on ROC website.

Another topic related to the protection of copyrights on Internet is the one concerning the possibility to block the network access to the person violating the copyright law. There are various laws at European level, from extremely lax laws to extremely strict laws, as the French one, which allows the user's internet connection cutting off, without any prior lawsuit<sup>41</sup>. Consequently, in compliance with the French law, the steps to be followed by the authorities ("three strikes") were: threatening email, followed by registered threatening letter, followed by the possibility to cut off the internet connection, without the hearing of the prosecution or defence (the subscriber should have paid the subscription within the period when he had no access to Internet). This article was further declared unconstitutional. The last adopted draft of the French law HADOPI stipulates the requirement of a lawsuit, but with fast proceedings<sup>42</sup>.

In this context, there was a severe fight at European level to introduce internet user protection guarantees in the provisions of the **Telecom Package** which was to be adopted by the European Commission. **The Article 1 (Amendment 138)** included, in its first versions, few guarantees for internet users. In its actual version, agreed on November 5, 2009 by the European Commission, European Parliament and European Council, the Amendment stipulates that:

"This Directive neither mandates nor prohibits certain conditions imposed by the providers of public electronic communication services limiting of end users' access to, and/or use of services and applications, where allowed by the national laws and comply with the Community law, but lays down an obligation to provide information on such limitations. National measures taken regarding the end users' access to, and use of services and applications through electronic communication networks shall comply with the fundamental rights and freedoms of the natural persons, including in terms of confidentiality and right to due process,

31 "The Ombudsman will not refer to the CCR regarding the interceptions Law," February 10<sup>th</sup>, 2009, Ziare.com.

32 See Government press release of February 25<sup>th</sup>, 2009.

33 The DECISION no.1258 from October 8<sup>th</sup> 2009.

34 Extract from the analysis made by Bogdan Manolea on legi-internet.ro; "Traffic data retention law deemed unconstitutional - the major events of 2009", January 11<sup>th</sup>, 2010.

35 Ibidem.

36 See a comprehensive review of this topic in "Copyright: ORDA Agreement, Amendment 138 and ACTA" published on November 5<sup>th</sup>, 2009 by Bogdan Manolea on www.legi-internet.ro.

37 www.orda.ro

38 APTI position to the proposed ORDA agreement of 20.10.2009; www.apti.ro.

39 APTI position to the proposed ORDA agreement of 20.10.2009; www.apti.ro.

40 See the complete list of the critics in APTI position.

41 "France: Three steps and your connection is cut!", published October 27<sup>th</sup> 2009 by Bogdan Manolea on www.legi-internet.ro.

42 "The French Constitutional Council Censures The 3 Strikes Law", June 17<sup>th</sup>, 2009; "Hadopi 2 Adopted Very Fast By The French Senate", July 15<sup>th</sup>, 2009 - European Digital Rights, www.edri.org.



as defined in article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms<sup>43</sup>.

The legal expert Bogdan Manolea, specialised in Internet laws, believes that: "Although the text includes certain useful provisions for preservation of users' rights, the adopted text is incomplete, in my humble opinion, because it still enables the implementation of a three-strike scheme in European countries<sup>44</sup> (even if under more difficult conditions) and does not interfere with the French law (even though is deeply incorrect). (...) Therefore, this is not a defeat. It is not a success. It is a political compromise"<sup>45</sup>.

### **THE TELECOM PACKAGE MUST BE IMPLEMENTED BY THE MEMBER STATES WITHIN MAY 2011<sup>46</sup>.**

Concurrently with all these debates, the terms of Counterfeiting Trade Agreement (ACTA) are negotiated internationally within a process initiated by the United States government where the representatives of some governments are invited. This process was blamed of a complete lack of transparency, the text under elaboration being confidential. An information request submitted by an USA non-governmental organization was denied by the White House Administration on the assumption that the text was classified in order to protect the national security<sup>47</sup>. The information leaked out to the public revealed that the ACTA text also regards the copyrights, including the copyrights on internet. The text provides for three-step measures ("three strikes") from French laws.<sup>48</sup>

The ACTA text is not public yet, although the European Parliament persistently requested such action. The European Commission claims there is no mention of "three strikes", but the last draft leaked out to the public still includes a procedure of this type<sup>49</sup>.

### **SECURITY LAWS**

In 2009, the security law package initiated in 2007 failed to be adopted. The package includes: the Bill on establishment, organization and operation of the National Authority for Communication Interception (plx. 55/2007); the Bill on organization and operation of the External Information Service (plx.60/2007); the Bill of Romania's national security (plx.56/2007); the Bill on intelligence, counter-intelligence and protection activity (plx.57/2007); the Bill on the intelligence officer status (PL-x no. 609/2007). Each of these legislative initiatives was passed by one of the Parliament Chambers and remained blocked in the other Chamber since 2007.

43 Published in the Official Journal of the European Union in December 18<sup>th</sup> 2009.

44 See the three steps of the French legislation.

45 "Copyrights: ORDA Agreement, Amendment 138 and ACTA" published on November 5<sup>th</sup> 2009 by Bogdan Manolea on [www.legi-internet.ro](http://www.legi-internet.ro).

46 "The Adoption of Telecom Package", published on January 7<sup>th</sup> by Bogdan Manolea on [www.legi-internet.ro](http://www.legi-internet.ro).

47 "Copyright treaty is classified for ,national security'" by Declan McCullagh, March 12<sup>th</sup> 2009, [www.news.cnet.com](http://www.news.cnet.com) quoted by Bogdan Manolea in "Copyrights: ORDA Agreement, Amendment 138 and ACTA".

48 "Copyrights: ORDA Agreement, Amendment 138 and ACTA" published on November 5<sup>th</sup> 2009 by Bogdan Manolea on [www.legi-internet.ro](http://www.legi-internet.ro).

49 "Leaked ACTA Text Confirms Suspicions", Edri.org, February 24<sup>th</sup> 2010. "FAQ On Acta Digital Chapter", Edri.org, February 22<sup>nd</sup> 2010.

All these laws include provisions that may have impact on the freedom of information and freedom of press<sup>50</sup>.

### **LAW ON PUBLIC PROCUREMENTS**

In 2009, with no public consultation, the Government made amendments to the Government's Emergency Ordinance no. 34/2006 on the award of public procurement contracts, public works concession contracts and services concession contracts<sup>51</sup>. Consequently, the product, service or work procurement may be done directly by a state authority when the procurement value does not exceed the Lei equivalent of 15,000 Euros per each procurement (art. 19). The limit was 5,000 Euros, according to the draft agreed as a result of a broad public consultation initiated in 2004 and completed in 2006.

Furthermore, the compulsoriness of publishing a contract notice and an award notice for the media publicity contracts applies only for cumulated annual values higher than the Lei equivalent of 20,000 Euros (art. 58). The previous ceiling for media publicity contract award without contract notice was 2,000 Euros.

From the press' viewpoint, the amendment means that any publicity contract below 15,000 Euros may be awarded directly, but it is not mandatory to publish a contract notice and award notice unless the contract value exceeds 20,000 Euros. Since the state publicity has always been used by the authorities of the state as an instrument to influence and control the press, this amendment, made with no public consultation, is void<sup>52</sup>.

### **Conclusions:**

- **The authorities keep trying to control and restrict by laws the freedom of speech and the access to information.**
- **Significant legislative initiatives are promoted without any prior public consultation, despising the decisional transparency law (No. 52, 2003).**

### **Recommendations:**

- **It is necessary to get involved in law monitoring and in debates with the public and the authorities.**
- **There must be consolidated responses of media community and the human right organizations against the dangerous legislative initiatives.**

50 Data about the information officers status law can be found in the Report, Press Freedom in Romania in 2008 published by ActiveWatch - Media Monitoring Agency - [www.activewatch.ro](http://www.activewatch.ro).

51 The ordinance was approved by Law no. 337 of 17.07.2006 published in Official Gazette, Part I no. 625 of 20.07.2006 and amended by: the Law no. 128/2007; O.U.G. no. No 94/2007 published in the Official Gazette 676 of 10.04.2007, Constitutional Court Decision no. No 569/2008 published in the Official Gazette 537 of 16.07.2008, O.U.G. no. No 143/2008 published in the Official Gazette 805 of 12.02.2008, O.U.G. no. No 228/2008 published in the Official Gazette 05/01/2009 3; O.U.G. no. No 19/2009 published in the Official Gazette 156 of 03.12.2009, O.U.G. no. No 72/2009 published in the Official Gazette 426 of 06.23.2009.

52 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](http://www.cji.ro).

Document adopted in the reunion of the Convention of Media Organizations (COM), dated 23-24 October 2009

## Sole Code of Ethics

### 1. THE JOURNALIST AND MASS MEDIA

1.1 A journalist is a person pursuing the collection, photographing, registration, writing, editing and publication of information related to local, national and international events of public interest, to the end of public dissemination, and who earns his/her living from this activity in a significant proportion.

1.2. The journalist shall practice this profession in order to serve the public interest, according to his own conscience and in accordance with the principles set out by the relevant professional norms and in this Code of Ethics.

1.3. To the meaning hereof, mass media refers to all means of mass information, irrespective of their technological platform, that were established and managed on the aforementioned purpose.

### 2. INTEGRITY

2.1. A journalist shall point to any kind of negligence, inequity and abuse.

2.2 Upon employment, a journalist has the right to be informed of the editorial policy of a particular mass media institution.

2.3. A journalist has the right to make a stand against any kind of censorship.

2.4. A journalist is entitled to the conscience clause. He/she is free to refuse any journalistic approach that is contrary to the principles of journalism ethics or to his/her own beliefs. This freedom derives from the journalist's obligation to inform the public in good faith.

2.5. A journalist's involvement in any negotiations with regard to the sale of publicity space or drawing of sponsorship is forbidden.

### 3. CONFLICTS OF INTERESTS

3.1. A journalist shall avoid to be drawn into a conflict of interests situation. The mass media institutions shall provide for the journalist a working environment with a total separation between journalistic and economic activities.

3.2. In order to avoid any conflicts of interests, it is advisable that a journalist should not be a member of any political party.

3.3. A journalist is forbidden to be an informer or an undercover agent of any secret service.

3.4. All journalists shall annually submit a declaration of interests before the managing directors of the mass media institutions where they are employed or collaborate with. It is recommended that mass media should make such declarations public online. The journalists may unilaterally decide on making their declarations of interests public on the website of a professional organization.

#### **4. GIFTS, SPONSORSHIP AND OTHER BENEFITS**

4.1. The use of the statute of journalist and of the information acquired in the exertion of this profession, so as to obtain benefits in one's best interest or in favour of third parties, is inadmissible and shall make a serious infringement of the deontological norms.

4.2. A journalist shall not accept either gifts in money or in kind, or any type of advantages offered to influence the journalistic act. The acceptance of promotional materials or of other objects with symbolic meanings is allowed. If a journalist travels on business based on an invitation, he/she shall make public how such travel was financed.

4.3. In exerting the profession of journalist and in the relations with public authorities or with various private law entities (trading companies, foundations, associations, parties, etc.), a journalist is forbidden to make agreements that might impair his/her objectivity or independence.

#### **5. ACCURACY**

5.1. The journalist distorting information on purpose, making groundless accusations, plagiarizing, using photographs or audio-video registrations unlawfully or resorting to denigrations, commits most serious professional deviations.

5.2. A journalist shall make accurate quotations. The quotations have to be precise and, with partial quotations, the journalist is bound not to distort the message of the quoted person.

5.3. To the purpose of the fair information of the public, the authors of journalistic products, who do not have the statute of professional journalists, are required to specify their statute.

5.4. It is mandatory to make a clear distinction between journalistic products and products produced for publicity purposes. Publicity materials shall be marked distinctly and presented so as not to be mistaken for journalistic ones.

#### **6. CHECK OF INFORMATION**

6.1. A journalist shall make reasonable efforts to check the information before publishing it. False information or information that is deemed false on serious grounds shall not be published.

#### **7. RECTIFICATION OF ERRORS**

7.1. A journalist shall promptly rectify any significant error appeared in the published materials.

7.2. The right of reply shall be granted when a request in this respect is deemed entitled and reasonable. The right of reply shall be published within the shortest delay and in similar conditions as the original journalistic material. The right of reply may be demanded within 30 calendar days as from the publication of the original journalistic product.

#### **8. DISTINGUISH BETWEEN FACTS AND OPINIONS**

8.1. A journalist shall act in good faith when presenting facts and opinions.

8.2. A journalist does not have the right to render any opinions as facts. The journalist shall make reasonable efforts to make a distinction between facts and opinions.

8.3. A journalist shall express opinions only based on facts.

## **9. PRIVATE LIFE**

9.1. A journalist shall respect the humans' right to privacy and dignity (including in aspects regarding family, domicile and correspondence).

9.2. The journalist's interference in someone's private life is allowed only when the public interest prevails over the protection of that person's image. In such cases, the journalist is allowed to disclose before the public facts and information with regard to someone's private life.

## **10. PROTECTION OF VICTIMS**

10.1. The identity of the victims of accidents, natural disasters, crimes and pre-eminently of sexual aggressions, shall not be disclosed, unless with the consent of the victim or the victim's family (when the victim is not in the position to do it himself/herself), or when the public interest prevails. The same regime of identity protection shall apply to disadvantaged people (the sick, the people with disabilities, the refugees, etc.).

## **11. PROTECTION OF MINORS**

11.1. A journalist shall protect the identity of the minors involved in events with negative connotations (accidents, crimes, family disputes, suicides, etc.), including when these persons are involved as witnesses. To this purpose, the video registrations and photographs shall be blurred so as to protect the minors' identities.

11.2. Only the situations when it is of public interest to identify the minors shall make an exception. The cases when the journalist acts, with the consent of the minor's parents or tutors, in the minor's superior interest, shall also make an exception.

## **12. PARTICULARIZATION OF MORBID ELEMENTS**

12.1. A journalist shall avoid the detailed description of criminal techniques and methods, of suicidal techniques or vices, and shall not use violent images and other morbid elements. A journalist shall also avoid provoking, promoting and developing press subjects based on morbid events. Crimes, murders, terrorism, as well as cruel and inhuman activities shall not be encouraged or presented in a positive way.

## **13. DISCRIMINATION**

13.1. A journalist shall not discriminate or incite to hatred and violence. The race, nationality or affiliation to a certain (religious, ethnical, linguistic, sexual, etc.) community is allowed to be mentioned only if such information is relevant to the treated subject.

## **14. THE BENEFIT OF THE DOUBT**

14.1. A journalist shall grant the benefit of the doubt, so that no human should be presented as a wrongdoer until a law court has ruled so by means of a final and binding decision.

14.2. No accusations shall be brought without offering the accused the possibility to plead his/her case. If divergent opinions are expressed, the journalist shall make public the viewpoints of all the parties concerned.

## **15. PROTECTION OF SOURCES**

15.1. A journalist shall preserve the confidentiality of the sources if required so, and also in case the disclosure of the sources' identity would jeopardize their lives, their physical and psychic integrity or jobs.

15.2. The protection of the professional secrecy and confidentiality of sources is equally a right and an obligation of the journalist.



**16. SPECIAL TECHNIQUES USED TO COLLECT INFORMATION**

16.1. As a general rule, a journalist shall collect information in an open and transparent way. The use of special techniques of journalistic investigation is justified only when there is a public interest in this respect and when such information cannot be obtained by other means.

16.2. The use of special techniques of investigation shall be overtly mentioned when such information is published.






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