

F R E E X X R E P O R T

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I N R O M A N I A  
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## METHODOLOGY

The FreeEx department started publishing annual reports dedicated to press freedom in year 2000. The purpose of said reports is to offer an outline of the main events and trends regarding freedom of speech and, especially, press freedom.

This report mainly covers the events of year 2011. The published cases are of an illustrative nature. We have also included in the report cases that do not directly concern the media or the journalists' rights, when we believed that they were relevant for the manner in which freedom of speech and press freedom are perceived in Romania.

This report is not exhaustive in nature, but represents a mirror of the events, as they have been brought to our knowledge and to the extent that they could be documented.

We classify the breaches of freedom of speech and press freedom into:

- Aggressions: involving physical attacks on journalists or editorial offices (assault, seizure or damaging of recording, video or photographic equipment, the taking of a journalist into custody, vandalizing the editorial office etc.);
- Threats: involving death threats, threats with endangering the journalist's or the journalist's family's physical well-being, the use of an abusive language towards the journalist;
- Pressures from authorities: pressures on journalists and media institutions, exerted by state institutions (investigations by the police, the public prosecutor's office, financial guards or other state institutions, meant to intimidate the press, to arrest or take into custody for investigation purposes, pressures from investigation bodies, for the disclosure of confidential sources, seizing or copying data from computers, seizing or copying documents, listening in on communications, implementing a defective legislation – which affects the press, the refusal to restate laws etc.);
- Political pressures: pressures on journalists and media institutions, exerted by politicians or political parties (organized pressured, exerted for the exclusive purpose of protecting the political or other interests of political parties or politicians; they include the use of state institutions for this purpose by political parties or by politicians);
- Economic pressures: pressures upon journalists and media institutions, exerted by companies or businessmen (the offering or annulment of advertising contracts, conditioning the keeping of such contracts upon refraining from publishing certain information or firing certain journalists etc.);
- Access to information of public interest: the refusal of state authorities or major institutions to provide journalists with information of public interest, abusive withdrawal of accreditation;
- Censorship: prohibition of publication, seizure of the press run, abusive withdrawal of the broadcasting license;
- Self-censorship: the act by which journalists refrain from publishing certain information of a public interest, as a result of indirect pressures exerted by the employers or the editorial office's management;
- Work conflicts: breaches of the rights of the journalist, as an employee;

- Legislation: normative acts which affect the legislative background in which the press operated and limit the journalist's freedom of speech.

The economic background in which the press operates (market division, acquisitions, mergers, the legislative background, economic issues etc.) affects the journalists' freedom of speech and the quality of the media products.

The failure to comply with deontological norms also affects the right to freedom of speech. This is why the FreeEx report dedicates special sections to an analysis of the media market and the main issues related to the ethics and self-regulation of the press.

The report also deals with a few cases when the rights to the freedom to meet or the right to private life are breached. We included these cases, to the extent that said rights were infringed upon, together with the right to freedom of speech. We also noted the cases when the right to private life and to freedom of speech were weighed, in favor of one of the two, or the cases of infringing upon the right to private life, to the extent that they represented rights won (or lost) for the journalists as well.

The reported cases have as a source: the direct investigations of the FreeEx team (discussions and correspondence with the parties involved, with lawyers of the parties, with the state institutions etc.), information gathered with the help of the Freeex network ([www. groups.yahoo.com/freeex](http://www.groups.yahoo.com/freeex)), articles published in the written press, radio and TV news, blogs and on-line publications. Our report also relies upon official reports or reports published by other independent institutions.

In many of the cases included in the report, we have been notified by the journalists directly. If your freedom of speech has been infringed upon, please contact us at [freeex@activewatch.ro](mailto:freeex@activewatch.ro)!

## GENERAL BACKGROUND

### Romanian media goes into freefall

In 2011, the worsening of the economic conditions on the media market brought about specific phenomena – the shutting down of certain publications, layoffs, salary cuts, conflicts in the work environment. The industry's economic frailty weakened the editorial offices even further. Being under high economic pressure, they became increasingly more prone to compromises, which entailed serious consequences on the editorial content, which was in a state of continuous and pronounced degradation.

The quality of the management act left a lot to be desired, as press managers failed to find economic solutions for recovery, when revenues from advertising dropped and the owners' investments dried out. The solutions that were found often entailed sacrificing the journalistic act, either in favor of the advertising clients or in favor of the investors or sponsors whose economic or political interests became more important than the professional ones.

Romania was on the 47<sup>th</sup> place in the world classification of press freedom (Press Freedom Index 2011), made by the Reporters without Borders foundation<sup>1</sup>. According to said classification, Romania ranked the same as the United States of America, Taiwan and Argentina.

### The most important events of 2011, which had an editorial impact on the freedom of speech:

- The abuses committed by the law enforcement agents and the systematic quashing of the civic protest initiatives (including on sports arenas) marked the end of year 2011 and the first few months of 2012, at a level that had been unprecedented since 1990.
- The industry's political orientation increased and many political figures and high profile political advisors became media owners or managers, before election year 2012.
- The stagnation of the advertising market contributed to the worsening of the media's economic situation, and the written press suffered the most. In this context, the advertisers' power has increased, and their pressures over the editorial space often affected the public's right to information and the journalists' right to freedom of speech.
- Again, the state became one of the key players on the advertising market, but there was a preferential treatment and lack of transparency in the signing of a large amount of contracts.
- Advertising from public funds was once again used as a tool for the promotion of political players.
- The large international media corporations continued to limit their activity in Romania, on account of the crisis and the unfair competition.

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<sup>1</sup> Press Freedom Index 2011/ 2012, Reporters Without Borders, En.RSF.org.



- The quality of the journalistic act has continued to degrade. Relevant information from the perspective of public interest was suppressed by sterile debates on news channels.
- Investigative journalism sought refuge in the online space and it became preponderantly the preoccupation of freelance journalists.
- The press does not always arrange its daily agenda independently, but it takes over the information prioritized by the political and financial pressure groups.
- NGOs became an important source of information of public interest, compensating for the gaps left by the press that showed disinterest for such subjects.
- The public television (TVR) did not succeed in escaping its political constraints. The former news manager and most of TVR's anchors are known for their opinions that favor the governing political party.
- Politicians continued to submit legislative initiatives that sought to constrain press freedom and to intimidate journalists. A deputy, who was subsequently held in custody for fraud, tried to restrict the journalists' access to criminal records.
- Journalists continued to be bullied, insulted and threatened, especially by politicians, authorities, law enforcement agents and public figures.
- The coming into force of the new Civil Code brought about new effects, which abusively restrict freedom of speech. A journalist was prohibited by means of a court judgment to write any more articles regarding a certain deputy's wife.
- The Romanians' faith in television networks reached a dramatically low level.
- Large radio-broadcasters treat self-regulation efforts in a very superficial manner.

Corporatist pressures of advertising clients often proved to be more powerful than the public's right to be informed or the journalist's freedom of speech. Adevărul daily retracted the content which was published on the online platform Think Outside the Box (TOTB) pursuant to the pressures of the advertising agency McCann-Erickson, which was handling the Coca-Cola account, after TOTB had published an article which directed its criticism at the aforementioned soft drinks manufacturer<sup>2</sup>.

The most blatant case of sacrificing editorial space in favor of an advertising client is still the media campaign of Roșia Montană Gold Corporation, which did not stop at overflowing the advertising space with commercials, it invaded the editorial space with advertising (masked and unmasked) and prompted the quasi-disappearance of the critical information regarding the mining project<sup>3</sup>.

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<sup>2</sup> Case detailed in this report's chapter on economic pressures.

<sup>3</sup> Ibid

In an apparently paradoxical manner, the market was faced, over the last months, with an explosion of news channels, explainable by the proximity of the election year. Their economic sustainability, however, raises significant doubts. At least five national news channels, along with other regional channels, entered a market the advertising revenues of which do not hint to any recovery from the crisis. This aspect fuels speculations regarding these media institutions' true reason for being: that of serving as political influence tools in the 2012 election year, marked by the local elections set in June and the parliamentary ones, set in November. Political figures or high profile political advisors (Sebastian Lăzăroiu, Vasile Dâncu, Cosmin Gușă and Dan Andronic) became, last year, media owners or managers, which raised new doubts regarding the credibility of the journalistic pursuit. The media market is still dominated by business people who are first and foremost interested in obtaining political and economic advantages and who are willing to invest incredible amounts to reach their goals<sup>4</sup>. This may be one of the explanations for the huge losses recorded over the last 7-8 years by key players of the media market.

Large international media corporations continued to withdraw or to limit their activity in Romania, blaming the very distortion of the market and of free competition by such economic players. "Right now, Romania's media is in the hands of some oligarchs, namely some business people who earned their money somewhere else, usually during privatizations; [...]. They are a financial support for the media, sometimes with up to 60 million per year- this being a specific case - they persuade the public to subscribe, by means of various contests, they set dumping prices, thus occupying the media market and eliminating editors who operate normally"<sup>5</sup>, the manager of the German trust WAZ, Bodo Hombach said. What the fate of the recently founded television networks will be after the completion of the election campaigns remains to be seen.

The pursuit for the rating has increased and serious ethical errors were made in 2011 as well, such as fabricating news, overexposure of "celebrity" scandals, the exploitation of tragic events – which are, however, irrelevant from the perspective of public interest, the promotion of licentious discourse aimed at vulnerable groups etc. At the same time, the press showed minimal interest for subjects of major public interest, which revealed the authorities' abuse, the infringement of fundamental rights or corruption acts. These include the subject of the secret CIA prisons (poorly covered by the media), the law enforcement agents' abuse against any attempts at a civic protest, or the Rosia Montana Gold Corporation (RMGC) case.

Unfortunately, the abundance of television networks does not come with a diversity of editorial content. Considering that 80% of the population<sup>6</sup> claims that television is its primary source of information, the condition of the journalistic act's quality becomes even more worrisome, as the same is filled with political partisanship, cheap sensationalism and the exploitation of subjects with low relevance for the well being of the society. The numerous news channels seem to follow standard recipes repeated ad infinitum, lacking information that is relevant from a public interest perspective. Information gets lost between never-ending debates, mainly gravitating around political statements and between the comments of omnipresent figures of so-called analysts and political commentators,

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<sup>4</sup> Details in this report's chapter on the Media Market.

<sup>5</sup> „Bodo Hombach: <<The Romanian media is mostly in the hands of oligarchs >>”, William Totok, RFI.ro, January 11, 2011.

<sup>6</sup> „Who recounts political life to us: See the most accessed means of information”, DailyBusiness.ro, January 4, 2012.

many of whom are closely connected to the political environment.

"They start in an uncertain profession, where overloading has become a rule. The consequences can already be seen in the public agenda, an agenda that contains increasingly less facts and increasingly more comments. The ability to gather information decreases and, as the newspapers were also the main provider of facts for TV, radios and the internet, the result is a society that finds out increasingly less information. The information that it does find out, it uses to death (...). This situation results in an abnormal disproportion, in a democratic society, between the watch dog, which gets smaller, and the people at whom it is supposed to be barking, who drive around in a Hummer"<sup>7</sup> journalist Cătălin Tolontan noted.

The space and the resources provided to investigative journalism or high profile coverage are at alarmingly low levels, despite the fact that these journalistic genres prove to rapidly attract audience, when they are carried out in a professional manner. In this context, the investigative press took shelter in the freelance area and/or the online space.

In their turn, the NGOs have become an important source of information, often compensating for the gap left by the media industry. The NGOs carry out research and high quality reports on subjects of a major public interest (the spending of public money, the way in which institutions operate, the corruption mechanisms, abuses and human rights infringements) but these subjects are rarely picked by the media. This also applies in the case of investigations that are independently carried out by investigative journalists, which investigations, despite being available for free, are rarely picked by the mainstream press.

Apart from the public that is deprived of any relevant information, the other victim of this status quo is the journalist, who is much too vulnerable and lacks any defense mechanisms against the employer's interests. The journalist operates in editorial offices in which the business and editorial managers are selected by an employer by their level of obedience, rather than their professional capacity. Unfortunately, the journalist's unstable condition, strongly intensified by the media crisis, does not always find its normal response in the mechanisms of solidarity, such as trade unions or professional associations, structures which are designed to protect the rights of the journalist and to consolidate his/her professional status. In the context of an increase of the work conflicts, generated by the economic crisis, a bigger interest in trade union activities is nevertheless noticeable, which may also be explained by the fact that almost all of the lawsuits brought before the court are won by journalists (to the disadvantage of the owners).

A measure of the trade' s interest in taking on minimal professional rules was also provided by the response given by the Romanian Association for Audiovisual Communications (RAAC), the representative of the radiobroadcasters' industry, when the NCA (National Council of the Audiovisual) invited the radio broadcasters to publish their ethical codes on their own websites. RAAC edited a document which was taken over by some television networks from their own websites. According to the RAAC' s chairman, George Chiriță, the code was not the result of journalis-

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<sup>7</sup> „Newspapeers”, Cătălin Tolontan, Tolo.ro, 2 noiembrie 2011.

tic effort, but was "adopted by the association by means of a decision of its board of directors."<sup>8</sup> The code is more similar to a paper on deontological themes, the displayed ethical "norms" being meant to have a consultative nature. Furthermore, the document's text explicitly states that the journalist's editorial independence does not exist. Therefore, "The radiobroadcaster can interfere in the editorial activity whenever it sees fit and especially when the delegation of the editorial policy does not produce the presumed effects."<sup>9</sup>

The dramatic drop of the advertising budgets in the business area caused an increase in the importance of advertising from public funds, therefore the public institutions returned to being relevant players on the market (investing approximately EUR 35 million<sup>10</sup>). This phenomenon risks becoming dangerous, considering that there are big question marks regarding the way in which these advertising contracts are being awarded. A recent study of the Centre for Independent Journalism notifies the lack of transparency and the disregard for legal procedures in spending this money. In some cases, the advertising contracts included clauses which demanded the media to broadcast favorable news regarding the institution that awarded the contract or PR materials for certain political figures. In other cases, the contracts for public advertising were used as masked subsidies for certain media companies. With a private advertising market in a staggering freefall, with budgets cut down to 50%, the contracts with public authorities became a genuine oxygen balloon for many editorial offices, which were ready to exchange editorial content for the much longed-for liquid funds<sup>11</sup>. Public television is a case in point, being sanctioned by the NCA for a political marketing show which was broadcasted in April and was sponsored by the Ministry of Regional Development and Tourism.

Beyond the influence exerted through the owners or the state advertising, politicians continued to use traditional methods of buying out the press. Thus, the Iasi city hall financially awarded journalists who covered "Sărbătoarea Iașiului" (the Iași Celebration), one of its events. There are county councils that finance the press through subordinated institutions and there was a case of a county council president who used to solve his local institutional disputes by means of advertisements that he bought<sup>12</sup>.

The legislation remained the politicians' favorite means of exerting constant pressure on the media, through legislative initiatives threatening the freedom of speech or the right to information. Mihail Boldea, Democratic Liberal Party deputy, proposed the amendment of Law 544/2001 and of the penal code, so that the information pertaining to criminal files in the prosecution stage or pending with the court, should be taken out of the public interest category until a final ruling is passed<sup>13</sup>.

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<sup>8</sup> „At the confluence between unacceptable and irresponsible: the most coveted deontological code of the present time”, Maria-Adriana Popa, Blog.ActiveWatch.ro, October 11, 2011.

<sup>9</sup> Ibid

<sup>10</sup> „Public advertising: Accelerate!”, Ioana Avădani – chief executive officer of the Centre for Independent Journalism, Ciprian Nicolae – Constrain expert, CJI.ro, February 14, 2012.

<sup>11</sup> Ibid

<sup>12</sup> Detailed cases in this report's „Pressures” and „Ethics” chapters.

<sup>13</sup> Detailed case in this report's “Legislation” chapter.

The new civil code, implemented in the autumn of 2011, already takes its toll on journalists. A presidential decree of the Maramureş Court, issued in January 2012, prohibits journalist Ioan Romeo Roşiiianu from covering any more stories on deputy Doru Lese's wife. The journalist had previously published several articles about Mrs. Lese's medical career, as well as about her businesses, many of which are conducted with the state<sup>14</sup>.

The insults, threats and assaults against journalists occurred in 2011 as well. Fortunately, in 2011, there were no serious cases of aggression towards journalists were recorded. Again, a significant number of politicians or representatives of the authorities were responsible for many of these actions. Street protests at the beginning of 2012 caused victims among the journalists or the citizens who were trying to record the events, the most serious off such incidents being that of Petru Nechita, an Antena 3 reporter, who was violently hit by some protesters. However, most of the assaults were committed by the law enforcement agents, who often prohibited the recording, in public spaces, of the abusive interventions, restrained and took to the precincts, without any reason, journalists and citizens who were documenting the events<sup>15</sup>.

In fact, the abuses committed by the law enforcement agents and the systematic quashing of the civic protest initiatives marked the end of 2011 and the first months of 2012. Hundreds of citizens were picked up from the streets, taken, fined and held at the precincts, citizens were hit by the law enforcement agents without any reason, artistic manifestations were censored, the protest messages on the sports arenas were censored - these are all situations which reflect a level of oppression which has not been seen in Romania since the 1990s. These acts were accompanied by extremely repressive legislative initiatives, such as the proposal of the Ministry of Administration and Internal Affairs to amend Law 61/1991 on public meetings, which proposal was withdrawn pursuant to the protests of the human rights organizations. In the absence of any violent precedents to justify such actions and initiatives, the PDL deputy and Vice-president Mircea Toader's statement might clarify the authorities' intentions. Referring to the urban acts of violence in Athens and London, during the parliamentary debate on the draft for the amendment of Law 61/1991, Toader claimed that, even though over the last 20 years, Romania has not been confronted with any acts of violence on the streets, "we should better be careful not to get into the same troubles as some countries with a democratic tradition."

In 2011 as well, public television was the focus of the politicians' concerns, as both government and opposition leaders exerted pressures on said institution's management.<sup>16</sup> Once again, the financial issues sparked discussions concerning the need to reform this institution. The amendment of the operating law, the first step towards the transformation of TVR in a public television service, free from any political involvement, was abandoned by politicians and the only legislative initiative was taken by National Liberal Party deputy Mirel Talos, but this initiative only targeted the management's privatization and not an institutional reform. Accusations of political partisanship in favor of the government are supported by the fines imposed by the National Council of the Audiovisual (NCA) to TVR, for the unequal representations of political parties in the debates, by the pro-DLP political marketing TV shows, but

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<sup>14</sup> Detailed case in this report's "Insult, Slander and the Right to Private Life".

<sup>15</sup> Detailed case in the chapter on „ Aggression, Threats and Insults”.

<sup>16</sup> Detailed case in the chapter on TVR.

especially by the dominant presence of hosts and commentators well-known for their favorable opinion on the current governance and for their conservative ideology. They frequently appear on debate or informative shows as hosts, permanent guests or commentators. At the beginning of 2011, Rodica Culcer, head of the Department for Informative and Sports Shows, openly expressed her support for Boc's government measures, during a speech held at an event organized by the Institute for Folk Studies, a foundation of the DLP.

Romanians have lost their faith in the media, especially with respect to the televised content. According to an IRES survey, 83% of Romania's adults watch television every day, three quarters of the Romanian people believe that televisions are willing to broadcast anything for the sake of an audience, and 65% of the viewers believe that television manipulates<sup>17</sup>. Nevertheless, another IRES study reveals that most Romanians (81.8%) get their information about politics first and foremost from television<sup>18</sup>.

## **The Media Market**

From an economic point of view, Romanian media went into freefall in 2011. The cutbacks, layoffs, resignations, bankruptcies, switches to online, management and shareholding changes, added to the effects of the economic crisis, which, by themselves, resulted in the severe degradation of the journalistic content and practices.

At the same time, given the increase of the media layoffs and personnel fluctuations, many journalists chose to take refuge in connected fields, better paid and interested in the services of communication specialists, such as public relations<sup>19</sup> and advertising. In many cases, journalists or media institutions combine both activities, in either an overt or a concealed manner.

### **The Written press**

The most affected field was that of the written press. The print market collapsed, both qualitatively and from the point of view of its credibility<sup>20</sup>, as well as from the perspective of its press runs and advertising incomes. Journalist Petre Barbu believes that one of the main causes of this circumstance is the "incompetent and mediocre management"<sup>21</sup>. Investments of dozens of millions of Euros vanished at the first sign of crisis, and media managers proved their level of competence when they benefited from huge budgets, and were unable to find effective solutions when the economic crisis occurred.

Press runs dropped from the very beginning of the year, and the titles with the most sales were the tabloids Click! and Libertatea and the generalist daily newspaper Adevărul<sup>22</sup>. The investments in the written press advertising

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<sup>17</sup> „Attitudes and customs of media consumption. Perceptions regarding the NCA. Research report”, IRES – the Romanian Institute for Assessment and Strategy, Media.HotNews.ro, November 10, 2011.

<sup>18</sup> „Who recounts political life to us: See the most accessed means of information”, DailyBusiness.ro, January 4, 2012.

<sup>19</sup> „PR, the journalists' refuge. The challenges of the new profession”, Andreea Ștefan, DailyBusiness.ro, August 5, 2011.

<sup>20</sup> „Why do newspapers die?”, Alexandre Spahiu, CriticAtac.ro, May 23, 2011.

<sup>21</sup> „The agony of the media”, Petre Barbu, Adevărul.ro, December 29, 2011.

<sup>22</sup> „BRAT: The Romanian newspapers' press runs decreased in the first quarter of 2011”, Gabriela Diță, Mediafax.ro, June 6, 2011.

have decreased, by comparison to those of the previous year, ever since the first quarter of 2011<sup>23</sup>, which caused many publications to migrate to the online environment and some, even to shut down. The local press was in particular strongly affected, as many editorial offices disappeared completely<sup>24</sup> or became dependent upon public funds and, as a result, vulnerable to political pressures. The "opportunity" of the printed newspapers is the election year, but the written press financed to support one politician or another does not help the credibility of the journalistic profession.

A study launched in February 2012 by the Centre for Independent Journalism (CJI) shows that, in 2011, the Romanian state was among the main players in the advertising market and that the public advertising market is undergoing constant development<sup>25</sup>. The study, called „Public advertising: Accelerate!”, reveals that, during January-October 2011, the budgets offered for contracting by the public authorities amounted to approximately EUR 32.5 million. Unfortunately, many of these contracts were granted in a non-transparent and unprofessional manner. „Most of these contracts (67%) were awarded based upon the <<lowest price>>, criterion, which does not take into consideration the impact upon the public and eludes the professional criteria of advertising allotment. Only for two of the 345 reviewed procedures, the impact assessment report provided for under the law was published. Over half of the procedures (54%) were not published on the site reserved to advertising contracts as well ([www.PublicitatePublică.ro](http://www.PublicitatePublică.ro)), as required by the public procurement legislation”<sup>26</sup>, according to CJI.

According to a BRAT study from the beginning of the year, 75% of the adults up to 64 years of age, from cities with over 50.000 inhabitants (approximately 5 million people) read a magazine or a newspaper daily, or at least weekly<sup>27</sup>.

In February, Click! and Libertatea, the Romanian tabloids with the most sales, went from 70 and 80 bani, respectively, to 1 Leu. During the same month, seven journalist positions of the Libertatea Online Department were cut back<sup>28</sup>. The sales of the two newspapers fluctuated over the year and registered slight decreases<sup>29</sup>. According to the BRAT figures, the monthly average number of copies sold in 2011 by Click! was 141,953, and the monthly average number of copies sold by Libertatea during the same period was 86,111.

In April, the Gândul newspaper, belonging to the Mediafax Group, gave up its printed edition, in exchange

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<sup>23</sup> „The top investors in the written press advertising in the first quarters”, Carmen Neacșu, Fin.ro, September 20, 2011.

<sup>24</sup> „The Bistrita journalist who got the best of Botis: <<Editorial offices almost vanished from the local press>>”, Vlad Odobescu, EvZ.ro, May 1, 2011.

<sup>25</sup> „Public advertising: Accelerate!”, Ioana Avădani –Centre for Independent Journalism chief executive officer, Ciprian Nicolae –Constrain expert, CJI.ro, February 14, 2012

<sup>26</sup> „Public advertising: Accelerate!”, Ioana Avădani –Centre for Independent Journalism chief executive officer, Ciprian Nicolae –Constrain expert, CJI.ro, February 14, 2012

<sup>27</sup> „Three out of four city adults read newspapers or magazines on a weekly basis”, Mediafax.ro, January 14, 2011.

<sup>28</sup> „Cutbacks at Libertatea”, Tiberiu Lovin, ReporterVirtual.ro, February 15, 2011.

<sup>29</sup> Distribution figure comparison for Click! and Libertatea for January-October 2011, BRAT.ro.

for an exclusively digital media product<sup>30</sup>, available online, on iPad and on mobile telephones.

At the end of the year, the entire team of the FHM magazine, run by the Sanoma Hearst Group, moved to the Playboy magazine<sup>31</sup>, of the Mediafax Group.

In May, Bobby Păunescu withdrew from the management of the Evenimentul Zilei and Capital publications, in favor of general manager Claudiu Șerban<sup>32</sup>, while Păunescu solely remained the owner of the assets and the brands. This was followed by a series of massive cutbacks, layoffs and resignations from Evenimentul Zilei<sup>33</sup> and the coordinating editors were let go, while the editor-in-chief of the Capital newspaper, Iulian Bortoș, resigned<sup>34</sup> and was, himself, replaced by Claudiu Șerban. Some journalists were fired, while others chose to leave, with severance payments<sup>35</sup>. In November, Dan Andronic, editorial advisor of the EvZ-Capital Publishing Company, joined the shareholding of the same. On that occasion, Dan Andronic stated its intention to withdraw from political consulting, in order to return to its "first love, the media"<sup>36</sup>. During 2004-2007, Dan Andronic was the manager of the election and image campaigns for prime ministers Adrian Năstase (in 2004, with the PSD) and Călin Popescu Tăriceanu (in 2007, with the PNL), after which he became the political advisor of the PD-L<sup>37</sup> and is now an open supporter of president Băsescu.

In 2011, Adevărul Holding registered a severe decrease of the number of sold copies of the Adevărul newspaper (from 91,000 to approximately 34,000 in a year, according to the Romanian Press Run Auditing Office<sup>38</sup>), the accrual of debts, delays in the payment of salaries and the filing for bankruptcy, in court, by several of its suppliers<sup>39</sup>. The entire media business of the Adevărul group was a financial fiasco, similarly to the case of another media empire, the Realitatea group. For years, Adevărul had registered impressive press runs, but they were due mostly to the promotional inserts, and not (necessarily) to the quality of the editorial content. At the beginning of the year, the TV Guide of the Adevărul newspaper disappeared. In May, the Adevărul Holding Trust gave up its free inset supplement, „Adevărul de Seară” (ADS) and turned it into the paid weekly with the largest national distribution. Nevertheless, its financial condition did not improve and, in October, the ADS edition was shut down, following which the ma-

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<sup>30</sup> „Beginning from April 8, Gândul shall become an exclusively digital media product – online, iPad and mobile telephone”, Gândul.info, March 24, 2011.

<sup>31</sup> „Moves for men's magazines: The entire FHM team moves to Playboy”, Cristian Predoi, Adevărul.ro, December 13, 2011.

<sup>32</sup> „Exclusive: Claudiu Șerban completely takes over the management of Evenimentul Zilei. Bobby Păunescu is no longer involved in the newspaper's management”, Petrișor Obae, PaginaDeMedia.ro, April 27, 2011.

<sup>33</sup> „Layoffs and resignations at Evenimentul Zilei”, Iulia Bunea, Adevărul.ro, May 18, 2011.

<sup>34</sup> „Exclusive. The Capital editor-in-chief has resigned”, Petrișor Obae, PaginaDeMedia.ro, May 20, 2011.

<sup>35</sup> „Departures from EvZ: two seniors, two editors, two editors, copy editors and reporters”, Petrișor Obae, PaginaDeMedia.ro, May 19, 2011.

<sup>36</sup> „Dan Andronic quits consulting and returns to the press”, Irina Ursu, Ziare.com, November 16, 2011.

<sup>37</sup> „Political consulting in Romania: lonely wolves or successful companies?”, Irina Ursu, Ziare.com, May 22, 2011.

<sup>38</sup> Distribution figures, BRAT.ro, comparison between the periods July-September 2010 and July-September 2011.

<sup>39</sup> „Good night, Adevărul de Seară! The corporation is in debt”, Cristian Șt. Vasilcoiu, EvZ.ro, May 10, 2011.



terials of the local teams were to be incorporated in the Adevărul newspaper<sup>40</sup>. In December, Adevărul also gave up its weekend edition. „After four months, Adevărul de weekend is a newspaper that costs 4 Lei and, nevertheless, sells more at the newspaper stands than any other *quality* newspaper in Romania. Due to a blockage in the advertising market, which is ineffective in Saturday editions (I do not know why, Romania is the only place where this happens), we moved the newspaper on Friday, to steer clear of this perception, which has become a custom”, declared editorial manager Răzvan Ionescu.

In February 2012, Adevărul Holding gave up its long-announced, but never launched, TV division, and laid off the 20 Adevărul TV<sup>41</sup> employees, one week after Alexandru Sassu, the head of this project, had resigned, invoking "the fundamental difference between the editorial policy of the main daily newspapers, especially the Adevărul newspaper, and his own points of view"<sup>42</sup>. The Adevărul TV project was granted a license in October 2010, when the heads of the trust announced that they shall invest EUR 37.5 million in it. Also in February 2012, the weekly cultural magazine Dilema Veche, printed by the Adevărul Holding corporation, implemented, for the first time in Romania, the fee on part of the online content. "The explanation is simple. On the one hand, the incomes of the press have dropped, so we must find different formulas to compensate for said drops. On the other hand, it is hard to maintain full gratuity for a website such as DilemaVeche.ro, which offers high quality content, which you cannot find anywhere else"<sup>43</sup>, said Mircea Vasilescu, editor-in-chief of the publication. The price of the subscription was set to EUR 3 per month, EUR 21 per year, respectively. In March 2012, the advertising agency Odyssey Communication demanded the insolvency of Adevărul Holding, despite the fact that both companies are owned by businessman Dinu Patriciu<sup>44</sup>.

The Intact group shut down several publications in 2011 or moved them exclusively online. In the second month of the year, the Media Sport Group, part of Intact, shut down the Good Homes magazine and restructured all of its editorial office, formed of 5 employees<sup>45</sup>. In August, the Intact Group ceased the print editions of the Financiarul daily newspaper, choosing the exclusively online version (on the Fin.ro website), it launched the Fin.ro Magazin magazine and, after a reorganization, joined the editorial offices of Financiarul and Săptămâna Financiară<sup>46</sup>. "The reasons are related to the general context of the market, both of the advertising and the newspapers. Most of our targeted readers already prefer to get their information online and the advertising budgets available at the time being for the printed press no longer justify keeping a printed newspaper on the market at any cost"<sup>47</sup>, declared, for

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<sup>40</sup> „Adevărul Holding shuts down its weekly publication, ADS”, Tudor Borcea, Mediaddict. ro, October 19, 2011.

<sup>41</sup> „Adevărul Holding gives up its TV division. Its employees are laid off”, Iulia Bunea, PaginaDeMedia.ro, February 29, 2012.

<sup>42</sup> „Exclusive: Alexandru Sassu quit from Adevărul Holding”, Petrișor Obae, PaginaDeMedia.ro, February 23, 2012.

<sup>43</sup> „Dilema Veche implements online payment”, Iulian Comănescu, TheIndustry. ro, February 8, 2012.

<sup>44</sup> „Patriciu sues himself: Odyssey demands the insolvency of Adevărul Holding”, DailyBusiness.ro, March 12, 2012.

<sup>45</sup> Intact shuts down Good Homes”, Petrișor Obae, PaginaDeMedia.ro, February 21, 2011.

<sup>46</sup> „The Financiarul daily shall only appear online”, Mediafax.ro, August 23, 2011.

<sup>47</sup> „Gabriela Vrânceanu Firea: the Fin.ro daily (Financiarul) moves online. We are launching the monthly Fin.ro”, Cristiana Constantinescu, PaginaDeMedia. ro, August 23, 2011.

Pagina de Media, the publication's general manager, Gabriela Vrânceanu Firea. Three months later, the Intact Group announced that the publications Săptămâna Financiară, Fin.ro Magazin and Felicia shall become, in their turn, exclusively online<sup>48</sup>. Two weeks later, the employees of the group's economic publications complained about the delay in the payment of their salaries and, pursuant to several discussions regarding the ayoff conditions, they left their editorial offices. In December, the former team of Săptămâna Financiară and Fin.ro<sup>49</sup> launched an independent weekly publication called Finanțistii<sup>50</sup>. What's interesting is that, if the press runs of the self-entitled quality newspapers and those of the tabloids drastically decreased in 2011, the situation is different about the Lumina de Duminică newspaper, edited by the Romanian Patriarchy, nationally distributed. This had an increasing weekly press run<sup>51</sup>, of over 20,000 copies<sup>52</sup>, close to that of Evenimentul Zilei<sup>53</sup>, the 4th "quality" newspaper in Romania, in point of sales, after Adevărul, Jurnalul Național and România Liberă<sup>54</sup>.

**Project launches, print media investments.** Despite the unfavorable economic context, in 2011, media projects continued to be launched and investors interested in the written press continued to appear.

After the bankruptcy of SC Cațavencu SA, admitted by the Bucharest Tribunal in May<sup>55</sup>, the former editorial team of Academia Cațavencu launched, in June, the Cațavencii weekly satirical magazine<sup>56</sup>, within the Adevărul Holding Trust. During the same month, the owner of the România Liberă newspaper, Dan Grigore Adamescu, became the new owner of the Academia Cațavencu brand<sup>57</sup>, in exchange for EUR 882,659<sup>58</sup>. As a result, the Medien Holding group, controlled by the Adamescu family, began to edit the weekly Academia Cațavencu, together with a new editorial team<sup>59</sup>. Under such circumstances, three satirical publications appeared on the market: Cațavencii, Academia Cațavencu and Kamikaze (the last one being established by 16 journalists who, in March 2010, left the editorial office of Academia Cațavencu, invoking editorial pressures and censorship).

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<sup>48</sup> „New victims in the written press: Săptămâna Financiară and Felicia move exclusively online”, Wall-Street.ro, November 22, 2011.

<sup>49</sup> „The former team of Săptămâna Financiară launches a new economic publication, Finanțistii”, C.I., HotNews.ro, December 8, 2011.

<sup>50</sup> „Exclusive: The former team of Săptămâna Financiară launches Finanțistii on December 12”, Petrișor Obae, PaginaDeMedia.ro, December 8, 2011.

<sup>51</sup> Lumina de Duminică, BRAT.ro, 2011.

<sup>52</sup> „The media corporation of the Romanian Orthodox Church: the means by which the Patriarchy conveys its message through the stations, newspapers and websites it shepherds”, C.I., HotNews.ro, February 21, 2012.

<sup>53</sup> „Newspapeeeeeeeers”, Cătălin Tolontan, Tolo.ro, November 2, 2011.

<sup>54</sup> Distribution figure comparison, period 2011-2012, BRAT.ro.

<sup>55</sup> „The Bucharest Tribunal admitted the bankruptcy of SC Catavencu SA”, V.M., HotNews.ro, May 4, 2011.

<sup>56</sup> „The Cațavencii Magazine shall appear on Wednesday, in the Adevărul Corporation, with Mircea Dinescu as president”, C. Ciociltan, HotNews.ro, June 27, 2011.

<sup>57</sup> „Dan Adamescu purchased Academia Cațavencu”, Money.ro, June 14, 2011.

<sup>58</sup> „Florin Iaru: The Academia Cațavencu team launches <<a new magazine>>, next week”, Mediafax.ro, June 21, 2011.

<sup>59</sup> „Similar in nature, Cațavencii, Academia Cațavencu and Kamikaze compete with each other in intelligence, humor and readers”, Mediafax.ro, June 29, 2011.

The Puterea newspaper, launched in May 2010, was re-launched in July 2011, and appeared in a smaller format, with a number of 16 A3 pages<sup>60</sup>. Its online version was also improved. The newspaper's editorial team is formed, for the most part, of journalists who worked at Gardianul, Ziua and Cotidianul, publications that belonged to Sorin Ovidiu Vîntu, but the owners of the Puterea newspaper were not made public.

In September, the Intact Group launched the national magazine The Industry, with a press run of 5,000 copies<sup>61</sup>, with a media and advertising theme, targeting the media and creation groups and agencies and advertisers<sup>62</sup>.

The Competition Council approved, in November, the takeover of Edipresse A.S. by Ringier<sup>63</sup>, after Ringier had already acquired, over the last year, part of the magazines edited by the Edipresse Axel Springer<sup>64</sup> (Auto Bild, Joy) joint venture. Pursuant to said transaction, the Romanian magazine market became centralized<sup>65</sup> in the ownership of the Ringier and Sanoma Hearst companies.

Sanoma Hearst, the main market competitor of the new conglomerate<sup>66</sup> Ringier-Edipresse, took over, in December, Men's Health magazine, from Rodale Inc.<sup>67</sup> and began a collaboration with Disney, when the kids' collection "My first illustrated dictionary" was launched<sup>68</sup>.

**Advertising in the written press.** In the first half of the year, investments in the written press advertising were in the approximate amount of EUR 97 million rate-card, shows a BRAT<sup>69</sup> study. The real net amount is, however, estimated to a much lower value, somewhere around EUR 10 million<sup>70</sup>. According to an Alfa Cont report, drawn up for the paginamedia.ro website, the most ads in the written press were for two clinics treating hemorrhoids, anal fissures and sexual dysfunctions, followed by a mobile telephone company (Orange) and the European Social Fund<sup>71</sup>.

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<sup>60</sup> „The Puterea newspaper, relaunched in a new format, both in print and online”, Cătălin Dumitrescu, Mediaddict.ro, July 28, 2011.

<sup>61</sup> „The Industry”, Intact Media Group, IntactMediaGroup.ro.

<sup>62</sup> „Intact Media is preparing the media and advertising magazine The Industry”, DailyBusiness.ro, July 4, 2011.

<sup>63</sup> „Decision no. 63 of November 23, 2011 on the economic concentration operation carried out by SC Ringier România SRL by means of taking over the sole control over SC Edipresse AS SRL”, Competition Council, Consiliul Concurenței.ro., November 23, 2011.

<sup>64</sup> „Exclusive. Surprise move: Ringier buys Edipresse România”, Petrișor Obae, PaginaDeMedia.ro, August 25, 2011.

<sup>65</sup> „Ringier competes with Sanoma Hearst after the acquisition of Edipresse”, DailyBusiness.ro, August 26, 2011.

<sup>66</sup> „Ringier-Edipresse, the ins and out of the business”, Iulian Comănescu, TheIndustry.ro, September 10, 2011.

<sup>67</sup> „Sanoma Hearst România adds the <<Men's Health>> magazine to its portfolio”, Teodora Ieșeanu, IAA.ro, November 8, 2011.

<sup>68</sup> „Sanoma Hearst collaborates with Disney”, The Industry Editorial Office, TheIndustry.ro, December 9, 2011.

<sup>69</sup> „Who keeps newspapers alive. See the largest advertising buyers”, DailyBusiness.ro, September 20, 2011.

<sup>70</sup> „How much advertising has the Written Press actually swallowed, as compared to the Rate Card EUR 97 million?”, AdPlayers & Iulian Toma, AdPlayers.ro, September 21, 2011.

<sup>71</sup> „Clients of the crisis: The written press, riddled with hemorrhoids and anal fissures”, Carmen Maria Andronache, PaginaDeMedia.ro, September 16, 2011.

The most important investments in the written press came from the telecommunications operators, the auto segment, the banking sector, women's cosmetics, stores and supermarkets, manufacturers of clothing and underwear, non-governmental activities, state agencies and auction houses and the non-alcoholic beverage manufacturers<sup>72</sup>.

The 8<sup>th</sup> place in the top of companies that invested massively in the written press was occupied by Roșia Montană Gold Corporation (RMGC). The campaign carried out by RMGC has proved, over the last years, a threat against freedom of speech, because of the economic pressures and the (self) censorship practiced in exchange for advertising money<sup>73</sup>.

The content of the Romanian media is also severely affected by the corruption and lack of discernment on the advertising market – according to the statements of several representatives of the written and online press editors, in a debate with journalists, organized in December by BRAT<sup>74</sup>. The extremely harsh statements regarding the advertising industry have not been officially claimed by their authors, as the discussion was held in accordance with the Chatham House rule (you use the information, but you do not ascribe it to anyone and you do not disclose the identity of your discussion partners). „The major publishers, the creators of content, are disfavored by the corruption state within the advertising industry. I'm referring, first and foremost, to the clients' marketing services. Right now, in Romania, no pitch in 2011 is won without bribery paid by the agency to the client. (...) Company employees accept bribe when the budgets are being attributed, the agency pays the money (to the suppliers – editor's note), which it must then take from somewhere else, it turns against its suppliers, which it persuades to obtain prices as low as possible. [...] Everybody accepts the mechanism”<sup>75</sup>, said one of the participants in the debate.

„Media corporations are the salami in the sandwich between the advertising agents and the distributors. The money is held by the fat agencies, which state, in a very scientific manner, where the advertising money goes, but this manner is very carefully orchestrated. [...] I know about the advertising mafia and the pressures that are being made. The smaller the corporation, the harder the pressures. If the agencies accept such behavior, then the corporations are waiters in the industry: tell us what to write for the advertising money”<sup>76</sup>, Peter Imre, the general manager of Adevărul Holding also stated, in May, with respect to the advertising pressures.

### **The online media**

The „banishment” of the readers from print to online was also a result of the fact that no distinction was made between the content on the websites and the printed content, or the distinction was made to the detriment

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<sup>72</sup> „How much advertising has the Written Press actually swallowed, as compared to the Rate Card EUR 97 million?”, AdPlayers & Iulian Toma, AdPlayers.ro, September 21, 2011.

<sup>73</sup> Also see „FreeEx report 2010 – Press Freedom in Romania”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, 2011.

<sup>74</sup> „Accusations during BRAT discussions: Corruption and the lack of discernment in the advertising industry severely affect media content”, Costin Ionescu, HotNews.ro, December 21, 2011.

<sup>75</sup> Ibidem.

<sup>76</sup> „Peter Imre: The press is the salami in the sandwich between the advertising agents and the distributors”, Gabriel Păleanu, Cotidianul.ro, May 31, 2011.

of the printed versions. Thus, there are editorial offices that print abridged versions of the online materials/editions, without offering the readers a benefit (additional) for purchasing and paying for the publications.

In most cases, the pronounced development of the online media increased the rapidity of information, at the risk of down-grading the quality of the journalistic materials. To that effect, journalist Mihnea Măruță considers that "the pressure of being first and the hunger for breaking news have absorbed the relevance, flattened hierarchies and eliminated any ethics"<sup>77</sup>.

In 2011, the online media increased by 50% as compared to the previous year, from the point of view of the number of articles published<sup>78</sup>, and, according to the census data, 9 million Romanians used the Internet<sup>79</sup>, out of a total of 19 million<sup>80</sup>. According to the figures of the Internet Audience and Traffic Study (SATI), the most frequently read general news website was Realitatea.net, which exceeded, monthly, an average of 22 million postings, 7 million visits and 2 million unique clients<sup>81</sup>, and the most frequently read online Romanian tabloid was Cancan.ro, with over 40 million postings, 10 million visits and approximately 2 million unique clients on average, every month<sup>82</sup>.

Romanian online advertising generated incomes of EUR 31 million in 2011, 22% higher than in 2010, according to a ROADS study carried out by IAB România and PWC<sup>83</sup>.

### The TV market

In 2011, television remained the main means of information<sup>84</sup>. Ever since the beginning of the year, it was foreseen that 2011 was going to be the "year of the television stations"<sup>85</sup> on the Romanian media market.

**Realitatea TV and România TV.** Romanian television stations have undergone remarkable transformations throughout the year, and the most spectacular resolution consisted in the split of Realitatea TV and the repeated arrests of Ovidiu Vîntu, accused of blackmail and money laundering.

In March, two Realitatea journalists, Oana Stancu and Adrian Ursu, moved to Antena 3, after, one month before, they had accused of censorship Sebastian Ghiță, the businessman who took over the management of Realitatea in 2010, because he had taken their show off the grid. On that occasion, Sorin Ovidiu Vîntu (SOV) declared that letting the two journalists go is a "young man's gaffe"<sup>86</sup> and that the responsibility lies with manager Ghiță. Ghiță hinted that he did that because the two journalists had built their journalistic agenda by speaking on the phone with

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<sup>77</sup> „For whom do the newspapers burn”, Mihnea Măruță, ImpactNews.ro, April 11, 2011.

<sup>78</sup> „Media year 2011: Online media, a 50% increase; Facebook, a 53% increase and drop of the blogosphere postings”, I.B., HotNews.ro, January 24, 2012.

<sup>79</sup> „The number of Internet users in Romania (2011)”, Titus Capilnean, TitusCapilnean.ro, February 21, 2012.

<sup>80</sup> „Romania wins 2% at the high speed internet use rate after the 2011 census”, Adrian Seceleanu, ZF.ro, February 6, 2012.

<sup>81</sup> Realitatea.net website results for 2011, SATI.ro.

<sup>82</sup> CanCan.ro website results pe 2011, SATI.ro.

<sup>83</sup> „Online advertising brought USD 31 billion in 2011”, Cristian Predoi, Adevărul.ro, April 19, 2012.

<sup>84</sup> „It happens right next to us: television loses ground in Serbia, especially among young people”, Iulia Bunea, PaginaDeMedia.ro, February 22, 2012.

<sup>85</sup> „Three moves to pursuit in Romanian televisions”, Iulian Comănescu, Comănescu.ro, March 3, 2011.

<sup>86</sup> „The first sparks between Vîntu and Ghiță. SOV: <<Letting the two go is a youngster's gaffe >>”, Iulia Bunea & Alex Nedea & Cosmina Croitoru, Adevărul.ro, February 26, 2011.

Sorin Ovidiu Vîntu<sup>87</sup>. In April, CNA called the representatives of the two parties in order to clarify who had the editorial responsibility at Realitatea. „I can tell you today that I consider it the freest editorial office in the media environment. The people are confused, they do not know who to listen to! [...] We wish to hire journalists and let them do their job. This is, in fact, what we are arguing about”<sup>88</sup>, said Sebastian Ghiță, on that occasion.

Over the following months, SOV and Ghiță continued to accuse one another of editorial interferences. In March, the disputes between the two escalated: Vîntu tried to kick Ghiță out from the Realitatea headquarters with a bodyguard firm, because the latter allegedly rented the television station's headquarters on behalf of his company, Asesoft<sup>89</sup>, and Ghiță employed another security company. The conflicts and the bodyguard incidents repeated, subjecting the corporation's journalists to continuous stress, which caused collateral victims<sup>90</sup>. In April, Sorin Ovidiu Vîntu and his representative, Ion Ilie Cezar, were placed under detention under remand for 29 days, for threatening and blackmailing Sebastian Ghiță<sup>91</sup>.

Sorin Ovidiu Vîntu's conflict with Sebastian Ghiță became comical and turned into a statement war, taken to the courtroom. The former majority shareholder of the Realitatea-Cațavencu group, Sorin Ovidiu Vîntu was sentenced to 6 months in prison for blackmailing the manager of Realitatea Tv, Sebastian Ghiță, after Vîntu and Ilie Cezar claimed EUR 150,000 from Ghiță, under death threats. Ghiță provided Ilie Cezar with said amount, and the latter was caught red handed by the policemen, holding the money. During the trial, Vîntu, in his turn, accused Ghiță of allegedly trying to kill him on April 13, but submitted no evidence to that effect. Vîntu also accused Ghiță of being a secret service man: „I didn't know at the time that that gentleman (editor's note: Sebastian Ghiță) was hired by the Romanian Intelligence to dynamite Realitatea from the inside”<sup>92</sup>. Ghiță, in his turn, accused Vîntu of having paid heads of the secret services himself: „Realitatea Media SA was built and exploited as an instrument by the largest mafia group in Romania – the group formed of Luca, Vîntu and their lieutenants. The money came from three sources: FNI, Petrom and Petrom Service and the illegal VAT refunds. Realitatea Media operated as an instrument of the white collar mafia, allowing for the blackmailing and swindling politicians, businessmen and the public opinion. The issues that I have seen for a year in the documents of Realitatea Media SA show that Vîntu directly paid former heads of the secret services, former Romanian presidents and countless analysts and journalists who manipulated public opinion”<sup>93</sup>.

In May, businessman Elan Schwartzberg purchased from SOV's children, Ioana and Ionuț Vîntu, 92% of the shares of Bluelink Comunicazione, the company that owns the Realitatea corporation<sup>94</sup>. Also in May, he announced that at the beginning of the year, he had also taken over 10% of the News Television România SRL company, which owns 50% of the B1 TV station<sup>95</sup>. However, there were suspicions according to which the takeover of the Bluelink

<sup>87</sup> „The Realitatea journalist is free. Too free”, Liana Ganea, Blog.ActiveWatch.ro, Aprilie 8, 2011.

<sup>88</sup> „The Realitatea journalist is free. Too free”, Liana Ganea, Blog.ActiveWatch.ro, Aprilie 8, 2011.

<sup>89</sup> „Backstage at the scandal between Sorin Ovidiu Vîntu and Sebastian Ghiță”, Iulia Bunea & Răzvan Pritulescu, Adevărul.ro, March 29, 2011.

<sup>90</sup> „Open letter to my employers, Sorin Ovidiu Vîntu and Sebastian Ghiță”, Gabriel Bugnar, GabrielBugnar.blogspot.com, April 23, 2011.

<sup>91</sup> „Sorin Ovidiu Vîntu, retained on remand for 29 days”, Realitatea.net, April 29, 2011.

<sup>92</sup> <http://www.paginademedi.ro/2011/10/12-octombrie-vintu-nu-stiam-la-vremea-aceea-ca-ghita-este-pus-de-sri-sa-dinamiteze-realitatea/>

<sup>93</sup> <http://www.hotnews.ro/stiri-esential-10634290-sebastian-ghita-sorin-ovidiu-vantu-platit-direct-fosti-sefi-servicii-secrete-fosti-presedinti-romaniei-2009-vrut-numeasca-iar-seful-statului.htm>

<sup>94</sup> „Elan Schwartzberg purchased 92% of the Realitatea corporation”, Viorela Grecu, ImpactNews.ro, April 30, 2011.

<sup>95</sup> „Bobby Păunescu: Elan Schwartzberg took over, at the beginning of the year, 10% of News Television România, a company owning 50% of B1 TV”, C. Ionescu, HotNews.ro, May 3, 2011.

Comunicazione shares was just a front, and the real beneficiary of said shares was still Sorin Ovidiu Vîntu<sup>96</sup>, but both SOV and Elan Schwartzberg disclaimed such possibility. After the transaction, Schwartzberg announced the sale of the Publika TV station, from the Moldavian Republic. In September, the businessman demanded that the Realitatea Media corporation should file for insolvency, and his demand was admitted by the Bucharest Tribunal. After one month, in the context of an escalation in the conflicts between Sorin Ovidiu Vîntu and Sebastian Ghiță, the television station split. Thus, part of the Realitatea TV team remained, to work for Elan Schwartzberg, and part of the team moved to România TV, a television station that had been recently set up by Sebastian Ghiță.

In November, 10 persons, including SOV and trade unionist Liviu Luca, were retained under remand for 29 days, for embezzlement and money laundering in the file of the controlled bankruptcy of Petrom Service<sup>97</sup>. After one week, the defendants obtained the decision of being investigated while released on their own recognizance and prohibited from leaving the country. The public prosecutors considered that the Realitatea Media Group was part of a structure that laundered money and rendered Petrom Service bankrupt, by means of an illegal scheme.

Only a few weeks after S.O. Vîntu and Liviu Luca were retained under remand and accused of embezzlement and money laundering to the detriment of PSV Company (the former Petrom Service), Cozmin Gușă announced that he became, together with Maricel Păcuraru, the owner of the Elbahold Limited offshore, a company that controls 55% of PSV Company. PSV Company owns 7.55% of Realitatea TV. Former politician, advisor of several politicians, but also former advisor at Realitatea TV, Gușă is a close friend of Sorin Ovidiu Vîntu. In his turn, Păcuraru was associated with Vîntu in various businesses. Gușă announced that he owned 20% of Realitatea TV și 20% of OTV, which was disclaimed by Dan Diaconescu, the main shareholder of the latter TV station. According to the NCA, PSV Company is registered with 7.55% of its shares at Realitatea Media, and at OTV – with 20%. Cozmin Gușă claimed that PSV Company, formerly PetromService, already filed an action in the case file in which the arrest of the "Vîntu lot" was demanded, for the recovery of the prejudice, estimated at over EUR 83 million<sup>98</sup>. The Adevărul newspaper launched the hypothesis that all of these transactions are part of a strategy by means of which the damages that are potentially recovered by Gușă and Păcuraru's company shall also end up at Vîntu<sup>99</sup>.

The Report of the National office for the Prevention of Money Laundering shows that approximately EUR 126 million were transferred from the accounts of PSV Company to companies that control media entities belonging to the Realitatea group, including Realitatea TV. The amounts should be recovered by PSV Company, a company that has been in a state of insolvency since 2009. „Thus, we can estimate that one has identified solid indications of money laundering of a total amount of Lei 576,725,000 (approximately EUR 157.000,000), representing the payments made from the account of PSV Company to the companies Boaz Active SRL, Laveco SRL, Corservil SRL, Global Video Media SRL, GMC Media Box SA and Demera Investments LTD”, the ONPCSB report concludes. Two of these offshores, GMC Media Box SA (where approximately EUR 86 million were transferred) and Demera Investments LTD (where EUR 40,000,000 were transferred), have been identified as being under Vîntu's

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<sup>96</sup> „Details from the report on the arrest of Sorin Ovidiu Vîntu, which question the same of Realitatea TV to Elan Schwartzberg”, D. Tapalagă & C. Ionescu, HotNews.ro, November 11, 2011.

<sup>97</sup> „Liviu Luca and Sorin Ovidiu Vîntu, retained on remand for 20 days. The public prosecutors tell us how the two embezzled Petrom Service”, Social Department, Gândul.info, November 8, 2011.

<sup>98</sup> „Cozmin Gușă: I hold 20% of the shares of Realitatea TV and OTV”, B1.ro, November 27, 2011.

<sup>99</sup> „SRI: Vîntu, the beneficiary of the Petromservice money”, Liliana Năstase, Ionel Stoica, Adevărul.ro, September 26, 2011.

control<sup>100</sup>.

**MediaPRO.** PRO TV started the year with an absolute rating success: The „Romania has talent” show has become the most watched entertainment show of the last two<sup>101</sup>, the show's finale being watched by 3.3 million viewers. In 2011, the television market was authoritatively dominated by the PRO TV group (with a market share of 32%) and the Intact group (with a market share of 24.7%)<sup>102</sup>.

In 2011, Adrian Sârbu continued to massively sell part of his shares in the Central European Media Enterprises (CME), obtaining USD 11 million for them, during 2010 and 2011<sup>103</sup>. These transactions would have diminished the trust of the group's investors and would have decreased the value of the shares by half, according to an economic research report of the Societe Generale group<sup>104</sup>.

**INTACT.** During the year, the Intact corporation was marked by management changes and by several litigation cases with the company RCS&RDS, regarding the rebroadcasting of the channels in a must carry system. Antena TV Group SA demanded the insolvency of RCS&RDS, while RCS&RDS demanded moral damages in the amount of EUR 100 million from the Antena, on the grounds that the corporation had allegedly caused it moral damages and conditioned the rebroadcasting of the must carry channels (Antena 1 și Antena 3) on the broadcasting, for a fee, of two other channels (Antena 2 and Euforia)<sup>105</sup>. The conflicts escalated and affected the GSP TV channel, which was taken out of the schedule of RCS&RDS, even though it was included in the must carry system. In December, the 5th District Court ordered RCS&RDS to include GSP TV in its schedule<sup>106</sup>.

At the beginning of the year, after being made head of the online division of the Intact corporation, Sorin Danilescu committed suicide, and the position of general manager of Intact Interactive was subsequently taken over by Bobby Voicu<sup>107</sup>. In March, the manager of the political section of Antena Group, Sorina Matei, resigned, claiming that the conditions of one of her interviews with the President had been changed<sup>108</sup>. In May, journalist Stelian Negrea, former employee of the corporation, published evidence that the corporation promoted the blackmail and the harassment of the owners' political adversaries<sup>109</sup>. In October, Adrian Nanulescu was appointed CEO of Antena Group<sup>110</sup> on the position of Sorin Alexandrescu, who had left since September. Towards the end of the year, Dan Matiescu and Codruț Șereș were appointed general manager and member of the group's Board of Directors, respectively, and the replacement of the manager of Antena 1, Bogdan Stratulă, with Isabella Cârnu,

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<sup>100</sup> Ibidem.

<sup>101</sup> „Romania has talent breaks the audience record: the most watched entertainment show in the last two years”, Petrișor Obae, PaginaDeMedia.ro, February 19, 2011

<sup>102</sup> „TV decline continues after six months: more audience for less money”, Petre Barbu, Forbes.ro, July 25, 2011.

<sup>103</sup> „Has Adrian Sârbu destailized the CME?”, Cristian Predoi, Adevărul.ro, November 30, 2011.

<sup>104</sup> Ibidem.

<sup>105</sup> „RCS&RDS demands material and moral damages of EUR 100 million from Antena TV Group for denigrating its image”, Adrian Vasilache, HotNews.ro, April 7, 2011.

<sup>106</sup> „The 5<sup>th</sup> District Court: RCS is obligated to include GSP TV in its schedule!”, Cătălin Dumitrescu, Mediaddict.ro, December 19, 2011.

<sup>107</sup> „At Intact Interactive”, Bobby Voicu, BobbyVoicu.ro, March 18, 2011.

<sup>108</sup> „Adevărul”, Sorina Matei, SorinaMatei.blogspot.com, March 24, 2011.

<sup>109</sup> „The political and economic pressures at Intact and Adevărul Holding are unacceptable”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, May 10, 2011.

<sup>110</sup> „Adrian Nanulescu is the new CEO of Antena Group”, The Industry editorial office, TheIndustry.ro, October 31, 2011.



former acquisitions manager<sup>111</sup>, was announced.

**TVR.** The TVR reform took its time in 2011 as well, as the institution remained „stock in unfinished reform projects”<sup>112</sup>.

Despite its efforts towards economic recovery, the public television station ended the year in debt (accrued over the last years) of approximately EUR 100 million<sup>113</sup> (details in the „TVR” chapter of this report). The main causes for these losses, in the opinion of Alexandru Lăzescu, President and General Manager of TVR since July 2010, are: the disadvantageous contracts concluded by the previous administrations, the low level of the TV fee, which had not been updated in over 10 years, the decrease of the advertising market, as well as a collective employment contract that is disadvantageous for the institution<sup>114</sup>.

The financial crisis and the debts accrued over the years forced the management of the public television station to adopt a series of "budgetary austerity" measures, in order to decrease the institution's financial issues: one announced the restructuring of 10% of the employees<sup>115</sup>, the removal of any major salary discrepancies and the decrease of the expenses in agreement with the institution's trade unions. These measures have not yet materialized; instead, dozens of persons were hired and dozens of other employments are announced<sup>116</sup>.

In April, TVR launched an audit for obtaining the international standard ISAS, of management in the media industry (similar to the ISO certification), conceived by the Swiss consortium Media & Society Foundation<sup>117</sup>.

In August, Universal Studios International sued TVR and demanded USD 11 million as compensation for the failure to pay the license for several movies and television series broadcasted over the last few years<sup>118</sup>.

In September, TVR ended its collaboration with the Splendid Media advertising administration<sup>119</sup>, because of a drop in the advertising revenues and the debts accrued by the administration towards TVR<sup>120</sup>. Starting from October, the Marketing and Sales Department of the institution took over the management of the advertising.

The budget for 2012, adopted at the end of March 2012, provides for a 20% decrease of the staff expenses and a 4% decrease of the salary fund, as compared to year 2011.

**OTV.** In 2011, Dan Diaconescu, the owner of OTV, used his television station in order to promote the People's Party (established by Diaconescu for the stated purpose of running for Presidency (Dan Diaconescu is not a member of the PP). Even though the National Council of the Audiovisual repeatedly sanctioned the channel by fines

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<sup>111</sup> „Bogdan Stratulă leaves the management of Antena 1. The new manager of the station: the former head of acquisitions”, Petrișor Obae, PaginaDeMedia.ro, December 13, 2011.

<sup>112</sup> „The Sleeping Beauty, the Romanian Television”, Brândușa Armanca, Contributors.ro, August 2, 2011.

<sup>113</sup> „TVR has debts of EUR 100 million, its accounts are frozen, 52 million old Lei for a beginner's salary. Board of Directors' stenograph”, Ioana Oancea, Adevărul.ro, 18 decembrie 2011.

<sup>114</sup> „Activity report 2011 – Romanian Television Station”, <http://tvr.ro/files/113427.pdf>.

<sup>115</sup> „TVR cutbacks: 10% of the employees shall be laid off”, Revista22.ro, November 30, 2011.

<sup>116</sup> „Spring at the Public Television: <<budgetary austerity>>, a few new shows at TVR 1 and radically changed schedule at TVR 2, advertising policy is redeveloped”, C. Ionescu, HotNews.ro, March 16, 2011.

<sup>117</sup> „TVR, audited by international advisors”, TVR.ro, November 4, 2011.

<sup>118</sup> „Universal Studios International sued TVR and demanded damages of USD 11 million”, Mediafax.ro, August 18, 2011.

<sup>119</sup> „TVR announces the end of its collaboration with Splendid Media”, TVR.ro, September 28, 2011.

<sup>120</sup> „TVR advertising: Net advertising incomes lower in 2010 than in 2009 and negotiations for the scheduling of the Splendid Media debts”,

of Lei 100,000 (in March and in May) for political advertising outside the election campaign, the offence recurred, which is why the NCA decided, in October, to stop the broadcast of OTV for 10 minutes<sup>121</sup>. Offences of this type also continued in 2012, until the NCA halved the channel's license, in April. The OTV channel was also involved in an image-related scandal in July 2011, when Doru Iuga, the channel's manager, was taken into custody for pandering and having sexual relations with minors<sup>122</sup>.

**Television channels for political parties.** In December, România Liberă published an analysis which revealed that during the pre-election year 2011, the NCA granted 52 license for television channels associated with local political figures<sup>123</sup>. „In almost all of the cases, we are talking about local businessmen who do not obtain incomes from the press, but finance the press in order to take care of their own economic or political issues, a phenomenon which we call «the "Berlusconization" of the press». We'll probably have to deal with such situations next year as well, especially since our experience has proven that the practices stay the same, regardless of the political players involved or the political color of the governing parties”<sup>124</sup>, stated Răzvan Martin, joint author of this report.

At the same time, in the pre-election period, certain renowned political figures or political advisors (Sebastian Lăzăroiu, Vasile Dâncu, Cozmin Gușă, Dan Andronic) became media owners or managers, which raised new doubts with respect to the credibility of the journalistic pursuit. In May, social-democratic sociologist Vasile Dâncu, former PSD Minister of Internal Affairs Ioan Rus and the sponsor of the CFR Cluj football team, Arpad Paszkany, created a press group, after taking over several Cluj media (the Transilvania Channel television station, Mesagerul de Cluj, CityNews)<sup>125</sup>. On December 1, the former presidential advisor Sebastian Lăzăroiu became the general manager of the press group of the „România de Măine” foundation, belonging to Aurelian Bondrea, the rector of the Spiru Haret University<sup>126</sup>.

**Audiences.** The most watched television channels in 2011 were PRO TV, Antena 1 and Kanal D<sup>127</sup>, with average national ratings of 2.7%, 2% and 1.1%, respectively. In the prime time, at a national level, Pro TV registered an average rating of 6.1% and a market share of 15.3%, Antena 1 – an average rating of 4.2% and an average market share of 10.7%, while Kanal D has an average rating of 2.8% and a market share of 7%<sup>128</sup>.

## Radio

According to the results of the Radio Audience Study (SAR)<sup>129</sup>, obtained by IMAS, ARA and Mercury Research, the preferences of radio listeners have oscillated during the year. Thus, in January-May 2011, the urban

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C. Ionescu, HotNews.ro, March 22, 2011.

<sup>121</sup> „OTV, sanctioned by the NCA with the suspension of the broadcast for 10 minutes, for political advertising”, Ovidiu Petrovici, RomâniaLiberă.ro, October 4, 2011.

<sup>122</sup> „OTV manager Doru Iuga, arrested for 29 days for pandering and sexual relations with underage boys”, Antena3.ro, July 1, 2011.

<sup>123</sup> „The war of political party televisions. Who will lie more convincingly in 2012?”, Ticu Ciubotaru, Cristian Hagi, Claudiu Pădurean, Andreea Poșcotilă, RomâniaLiberă.ro, December 15, 2011.

<sup>124</sup> Ibidem.

<sup>125</sup> „Vasile Dâncu, Ioan Rus and Arpad Paszkany took over a series of medias from Cluj, including the Transilvania Channel television station, Mesagerul de Cluj and CityNews”, R.M., Economie.HotNews.ro, May 22, 2011.

<sup>126</sup> „Shock move: Lăzăroiu, general manager of <<dinosaur>> Bondrea's television channel”, Inpolitics.ro, December 6, 2011.

<sup>127</sup> „The surprise of 2011 in the audience <<war>>. What television made the top 3”, Andreea Ștefan, DailyBusiness.ro, January 12, 2012.

<sup>128</sup> Ibidem.

<sup>129</sup> „Radio audiences”, The Association for Radio Audience, Audiență-Radio.ro, 2011.

public of over 11 years of age predominantly listened to Radio România Actualități (daily reach: 2209.6, market share: 15.8), Kiss FM (daily reach: 2764.8, market share: 15.3), Radio România Regional (daily reach: 1637.5, market share: 11.1) și Radio ZU (daily reach: 1768.8, market share: 10)<sup>130</sup>.

During the summer (between May and August), the first places in the audience top were occupied by: Radio Kiss FM (daily reach: 1926.3, market share: 16.7), Europa FM (daily reach: 1089, market share: 9.9), Radio ZU (daily reach: 1073.1, market share: 8.5 and ProFM (daily reach: 886, market share: 7.5).<sup>131</sup> During the last three months of the year, the radios most listened to were: Kiss FM (daily reach: 1714, market share: 14.6), Radio România Actualități (daily reach: 1231.7, market share: 13.8), Europa FM (daily reach: 1052.4, market share: 9.3) and Radio ZU (daily reach: 1048.1, market share: 8.6)<sup>132</sup>.

On December 1, 2011, Radio România launched Radio Chișinău, a radio station that, according to its founders, was created „in order to respond to the strategy of the public radio station in Romania, to offer radio shows and content for the audience in the Republic of Moldova”<sup>133</sup>.

#### Conclusions:

- **The economic crisis continued to result in the shutting down of some publication, or the switch of others to online, many journalists were laid off or moved to connected fields, the salary cuts increased and numerous management and shareholding changes occurred.**
- **The very low level of the advertising revenues and sales caused a dramatic drop of the written press.**
- **Online media gained ground both from the point of view of improving its content, and from the point of view of the number of viewings/users and the advertising market.**
- **The advertising from public funds became a relevant player in the context of the crisis, but many contracts were awarded in an unprofessional, non-transparent and preferential manner.**
- **Romanian media management has proven to be „incompetent and mediocre”<sup>134</sup> in the face of the challenges raised by the economic crisis.**
- **The pre-election year caused the appearance of a very high number of channels, which were not launched in accordance with a sustainable logic, which raises suspicions with respect to their true reason for being.**
- **The fact that many politicians and political advisors became media owners or managers casts a new shadow of doubt on journalistic credibility and independence.**
- **Foreign media corporations continued to limit their activity in Romania, as a result of the economic crisis and unfair competition, as well as because of the market distorted by the investments with a political (or economic etc.) stake in the media.**

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<sup>130</sup> „The results of the Radio Audience Study. Spring wave 2011”, IMAS Marketing & Sondaje, ARA, Mercury Research, Audiență-Radio.ro, May 2011.

<sup>131</sup> „The results of the Radio Audience Study. Summer wave 2011”, IMAS Marketing & Sondaje, ARA, Mercury Research, Audiență-Radio.ro, August 2011.

<sup>132</sup> „The results of the Radio Audience Study. Autumn wave 2011”, IMAS Marketing & Sondaje, ARA, Mercury Research, Audiență-Radio.ro, December 2011.

<sup>133</sup> „Radio România launches Radio Chișinău”, Răzvan Stancu, România-Actualități.ro, November 30, 2011.

<sup>134</sup> „The agony of the press”, Petre Barbu, Adevărul.ro, December 29, 2011.

- TVR was faced with a significant financial crisis. The public television's reform process is cumbersome, the main reason for this being the uncertainty of the management with respect to the continuity of the proposed measures. Many politicians took advantage of this unfavorable context in order to destabilize the institution even further, requesting that the TV fee be eliminated.
- The public prosecutors claimed that the Realitatea Group was financed, for many years, by the money embezzled in the Petrom Service case.
- Pursuant to the conflicts between and management and the owners, which were brought to court, Realitatea TV split into two separate television stations: Realitatea TV and România TV.

#### Recommendation for media owners:

- A trustworthy press is a long-term investment. Invest in making your journalists and editors more professional and provide them with an independent work environment.
- Short-term investments, focused on the survival of media institutions, must not ignore the effects on the quality and responsibility of the press. Respect for one's public is the safest investment.

#### Recommendations for journalists and editors:

- Do not tolerate the abuses of media owners. They diminish the credibility of the press, as a whole.
- The editors must be mediators between media managers/owners and the journalists, they must protect the editorial office's editorial freedom and undertake the responsibility of rendering the editorial office more professional.
- Professional compromises are a short-term solution, but have repercussions that may permanently damage your credibility in the minds of your trade and of your public.

#### Political and economic pressures. Pressures of the authorities

##### Adevărul de Seară, prohibited in Focșani

At the beginning of July, the journalists of the Adevărul de Seară Focșani weekly accused the distribution company Trinec Serv (of the Monitorul de Vrancea), owned by Corina Trifan, of blocking the printing of the publication. According to their claims, the reason has something to do with the publication of an unfavorable article regarding the company Mavi Beton SRL, in which Corina Trifan and her husband were shareholders. On the other hand, Corina Trifan claimed that said information was false. „Everyone is free to write whatever they want. I demanded no termination of the contract. The newspapers are distributed in the network's stands. Adevărul de Seară Focșani published false information regarding one of my companies and, considering the fact that there is no law of the press, I shall ask my lawyer what I can do”<sup>135</sup>, stated the network's owner, for FreeEx. Sabin Orcan, editor-in-chief of the Adevărul local editions, stated for FreeEx that he had received the following message from

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<sup>135</sup> „Adevărul de Seară Focșani cannot find its newspapers in the stands of Monitorul de Vrancea”, FreeEx, Blog.ActiveWatch.ro, July 7, 2011.

Corina Trifan: „Please put yourself in my shoes... considering that I own one of the largest press distribution networks in Vrancea... could you sell the publications of the Adevărul group in your stands ... given that they publish libeling articles that are ungrounded, undocumented and full of lies”<sup>136</sup>.

„We consider that the warning sign issued by <<Adevărul de Seară>> in Focșani, with respect to the issues related to tge newspaper's distribution, is a significant concern. The history of abuses against the press that dared criticize Marian Oprișan, the chairman of the Vrancea County Council, goes back almost ten years; at the beginning of the 2000s, the scandal regarding the censorship of the opposition press in Vrancea had become an international subject. In the meantime, Romania has become a member of the European Union, therefore all the more incompatible with the foibles of a regime that shows no consideration for the values of democracy. In our opinion, a press distribution company is subject to the same constitutional article (31) which grants the press a special status: the obligation to ensure the citizens' access to the information of public interest. The behavior of a company the object of activity of which is the distribution of the press should comply with this constitutional provision, because it does not operate with boots, but with information of public interest. Especially since a distribution company benefits from certain facilities from the local authorities, such as the right to place kiosks on the public domain. If such a company aggressively interferes in the natural route of the information, from political or commercial interest reasons, it should be exposed to a court's decision”<sup>137</sup>, declared Mircea Toma, president of ActiveWatch – Media Monitoring Agency.

#### **Adevărul deleted a website at the request of an advertising agency**

On May 6, the management of Adevărul Holding terminated, without prior notice, the contract with the Think Outside The Box platform, after said editorial office published 5 unfavorable articles regarding the Coca-Cola company. In a press release, Adevărul Holding explained the reasons for the ending of the relationship with the TOTB platform by „serious dysfunctions in the joint and mutual promotion editorial collaboration”<sup>138</sup>.

Pursuant to the pressures of public opinion, the journalists and ActiveWatch<sup>139</sup>, who accused Adevărul Holding of censorship, a new reality emerged: the manager of the advertising agency McCann-Erickson, Mihai Trandafir, exerted economic pressures over Adevărul Holding because of the editorial content hosted by the latter – the articles on Coca-Cola, published by TOTB. „It is beyond our power of understanding and completely unacceptable that a media company, together with which we were preparing a special project for a special day, should attack our client in such a manner. We are expecting your official stand and we shall make sure that all clients find out about this matter. As you can imagine, we are not going to pay for any of the Coca-Cola orders”, Mihai Trandafir stated in an e-mail subsequently published by Adevărul<sup>140</sup>.

Vlad Epurescu, editor-in-chief of the Adevărul website, handed in his resignation to protest against the decision. After deleting the website at the request of the advertising agency, the manager of Adevărul, Peter Imre,

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<sup>136</sup> Ibidem.

<sup>137</sup> Ibidem.

<sup>138</sup> „Adevărul Holding ended its collaboration with the <<Think outside the box>> platform”, Adevărul.ro, May 18, 2011.

<sup>139</sup> „Did Adevărul Holding censor TOTB for Coca-Cola?”, FreeEx, Blog.ActiveWatch.ro, May 9, 2011.

<sup>140</sup> „Bogdan Enoiu, General Manager of BV McCann Erickson: We apologize for the situation that has been created”, Iulia Bunea, Mihai Mincan, Adevărul.ro, 10 mai 2011.

send them an open letter in which he stated that „journalistic and editorial independence is the first and most important value of Adevărul Holding. Money cannot buy that”<sup>141</sup>. Imre also declared, a few days later, at the Romanian National Press Conference: „I know about the advertising mafia and the pressures that are being made. The smaller the corporation, the harder the pressures. If the agencies accept such behavior, then the corporations are waiters in the industry: tell us what to write for the advertising money”<sup>142</sup>.

Bogdan Enoiu, general manager of BV McCann Erickson, apologized for what happened. „Given the situation presented by Adevărul, we wish to specify the following: The actions of Mr. Mihai Trandafir do not represent the position or the way in which McCann Erickson operates. The Coca-Cola company was not involved in this action. We apologized for the situation that has been created”<sup>143</sup>, Enoiu stated.

The content of the Romanian press suffers „because of the corruption and the lack of discernment on the advertising market”<sup>144</sup>, said a BRAT member during a discussion with journalists, organized in December.

### **Gigi Becali cancelled a TV show**

In January, the online TV channel Sport.ro stopped its show, "Seriously", the producers of which, Mihai Mironică and Radu Banciu, often mocked Gigi Becali, the owner of the Steaua football team. Because of the show, Becali had prohibited the access of the channels ProTV and Sport.ro at all actions organized by the club (interviews, trainings, press conferences. The channel ended the show, despite the fact that it had one of the best performances of the channel – it had reached ratings of 1.3%, namely 147,862 viewers<sup>145</sup>.

### **RCS&RDS blocks the distribution of certain television channels**

During the year, cable operator RCS&RDS withdrew several channels from the "must carry" list from its broadcasting schedule. In December, RCS&RDS was fined Lei 100,000 de lei by the NCA for withdrawing from its schedule, in Arad, the regional channel West TV, which was on the list of television channels that are covered by the "must carry" principle.<sup>146</sup> The channel was replaced by România TV, controlled by businessman Sebastian Ghiță. One month before, the company had received another fine of Lei 10,000 de lei, for failing to include GSP TV in its schedule<sup>147</sup>.

### **Roșia Montană**

Press institutions continued to operate in 2011 as PR agents of the company seeking to exploit the Roșia Montană gold. The articles deleted after publication or the exclusive presentation of positions and opinions in favor of the project were supplemented by moments in which the anti-exploitation opinions were silenced.

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<sup>141</sup> Ibidem.

<sup>142</sup> „Peter Imre: The press is the salami in the sandwich between the advertising agents and the distributors”, Gabriel Păleanu, Cotidianul.ro, May 31, 2011.

<sup>143</sup> „Bogdan Enoiu, General Manager of BV McCann Erickson: We apologize for the situation that has been created”, Iulia Bunea, Mihai Mincan, Adevărul.ro, May 10, 2011.

<sup>144</sup> „Accusations during BRAT discussions: The corruption and the lack of discernment in the advertising industry seriously affect media content”, Costin Ionescu, Hotnews.ro, December 21, 2011.

<sup>145</sup> „Gigi Becali cancelled a TV show!”, Andrei Crăițoiu, Gsp.ro, February 12, 2011.

<sup>146</sup> „RCS&RDS, sanctioned for withdrawing a channel from its schedule”, Carmen Maria Andronache, Paginamedia.ro, December 14, 2011.

<sup>147</sup> „The NCA fined RCS&RDS Lei 10,000, for failing to include GSP TV in its schedule”, Mediafax.ro, October 11, 2011.

The Evenimentul Zilei daily, which includes advertising for the Roșia Montană Gold Corporation (RMGC), during the first 6 months of the year, published 23 articles in favor of RMGC, two neutral ones and none that raised any arguments against exploitation<sup>148</sup>. The articles merely presented the point of view of the company and, in several cases, fully consisted of press releases of RMGC<sup>149</sup>. A similar situation occurred at Jurnalul Național, with 13 favorable, one neutral and two negative pieces of news.

In January, the România Liberă daily deleted two articles regarding Roșia Montană from the publication's website. The first one, published on January 20, was about a protest against the mining project: "Over 100 persons protested for the inclusion of Roșia Montană in the patrimony of UNESCO". The second presented the results of a poll that showed that 67.6% of the Romanian parliamentarians would vote a law that prohibits the use of cyanides in mining activities: „Romanian parliamentarians could save Roșia Montană”. This article was replaced with one that did not include the statements of the UNESCO committee representative and the percentages per political parties<sup>150</sup>. The România Liberă editorial office responded that „the editors' decisions strictly targeted the requirements of clarity and concision”.

In other cases, the press accepted deals that were at the limit of journalistic ethics, to say the least. The online publication Hotnews.ro organized six discussions, attended by two participants who were in favor of the mining project and two who were against it. However, the debates were sponsored exactly by the mining company<sup>151</sup>, which was not clearly presented to the public (Hotnews used the expression „debates supported by Roșia Montană Gold Corporation”, without making it clear in what way they were supported; furthermore, not all articles published on this subject clearly referred to the fact that the debates were „supported” by RMGC).

### **Baia Mare mayor Cherecheș wanted to make up the rules of a show**

In May, after the local elections in Baia Mare, caused by the sentencing of former mayor Cristian Anghel to two years in prison for abuse of office, during the show "The Daily Debate" on the eMaramureș, the new Baia Mare mayor, Cătălin Cherecheș (PNL) aggressively accused the host of failing to comply with a schedule of the show, which he said he had sent the anchor a day before.

The aedile's outburst took place after host Romeo Dobocan asked him whether there was any pressure from the Intact group in order to run on the part of USL, given that Cherecheș was negotiating with PDL prior to the elections. The mayor responded by invoking matters pertaining to the host's personal life, while also claiming that eMaramureș was against him. Furthermore, the mayor declared that he would no longer participate in televised shows that failed to comply with the format set out by him.

ActiveWatch publicly sanctioned the mayor's behavior and sent him an open letter, drawing his attention to the fact that he had committed a series of abuses in his relationship with the press. „We hereby inform you that the format of a show is exclusively set out by the editorial team. Any external interference may be considered

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<sup>148</sup> According to an ActiveWatch analysis.

<sup>149</sup> „RMGC: The Roșia Montană dam is 100 times safer than other mining dams in the world”, Evz.ro, September 13, 2011.

<sup>150</sup> „Open letter: Censorship at Romania liberă?”, ActiveWatch.ro, January 28, 2011.

<sup>151</sup> „What impact will the exploitation of gold have over the Rosia Montana patrimony?”, Dragoș Comache, Hotnews.ro, September 20, 2011.

political, economic or other type of pressure. In other words, a limitation of the freedom of the press. For further details, we hereby recommend that you read article 30, paragraph (2) of the Romanian Constitution, according to which <<Censorship of any kind is prohibited >><sup>152</sup> – wrote ActiveWatch. „Secondly, your spontaneous reaction to an uncomfortable question of the journalist, with respect to your estate, was extremely worrisome. The fact that you resorted to personal attacks lowers your credibility. Moreover, the personal attacks against the journalist, by mentioning matters of a private nature, with absolutely no relevance to the subject in discussion, are likely to be considered acts of intimidation and expose you to the accusation of trying to restrict the freedom of the press”<sup>153</sup>, a ActiveWatch also specified, in the open letter addressed to the mayor.

### **Art censored by politics**

In May, the play "The blonde, the one-eyed man and the midget" was supposed to be performed at Sala Dalles. The performance was cancelled as a result of the intervention of manager Iustina Cornel, temporarily transferred from the Masca Theatre, where she worked as an accountant. "I was appointed by them, you've finished me with this show", the director allegedly said, according to the play's director, Ștefanis Lupu. The play didn't even have a political theme, said the director, the title was merely chosen on marketing grounds. Pursuant to the scandal that occurred, president Traian Băsescu asked the actors to perform the play on stage at Cotroceni<sup>154</sup>.

In October, a painting of president Traian Băsescu as Buddha, and Prime Minister Emil Boc as a bee, was taken out of an exhibition of some Timișoara artists, organized on the hallways of the County Council. "My work has been accepted by the exhibition's jury, it was mounted, then someone from the Timiș County Council came and took it down from the exhibition. I would never have imagined that such a small piece of work, of 50 x 40 cm, could cause so much trouble", declared the artist, Victor Gingiu, who had made the work "The bee - a symbol of hard work, effectiveness and saving".

The President of the Timișoara Artists' Union, Ioan Szekernyés, declared that the work was taken down because it didn't have any identification data on the back and they didn't know to whom it belonged<sup>155</sup>.

### **The Mayor's Office gives the journalists envelopes with money**

In October, the journalists accredited at the Iași Mayor's Office, each received Lei 150 in order to promote an event organized by the municipality – the Iași Celebration. The Mayor's Office's spokesperson, Sebastian Buraga, says that this is not bribe "as long as everyone gets some", more specifically the journalists pertaining to the publications, radios or televisions that have concluded a partnership with the institution for promoting the Iași Celebration and, possibly, even have their logo on the events' posters. The operators and the photographers, respectively, also received money.

The money was given to them in envelopes, under signature, on a payroll. The Mayor' Office's

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<sup>152</sup> „Abuses against the press – local USL elected in Baia Mare and Brăila”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, June 9, 2011.

<sup>153</sup> Ibidem.

<sup>154</sup> Traian Băsescu - Buddha and Emil Boc – bee, in a painting. A PSD senator accuses the PDL of censorship for withdrawing the painting from an exhibition”, Mediafax.ro, October 29, 2011.

<sup>155</sup> „<<The blonde, the one-eyed man and the midget>> is performed, on stage, at Cotroceni”, Sebastian Eduard, Jurnalul.ro, May 20, 2011.



representative also says that, even though the Iași Celebration had a crisis budget this year, „the journalists are also going through a crisis, and we thought it would be unfair for us not to continue”. The journalists' payment policy was allegedly initiated by the former mayor, Constantin Simirad<sup>156</sup>.

According to article 4 of the Journalist's Unique Deontological Code, developed by the Media Organizations' Convention, the journalist must not accept any kind of „gifts in cash, in kind or any other benefits that are offered to him/her in exchange for influencing the journalistic act”.

### **The Intact group performs ordered investigations**

In June, the former head of the Intact corporation's Investigation Department, Stelian Negrea, disclosed that the department's investigations were used as instruments of blackmail and harassment against the political opponents of the group's owner, Dan Voiculescu.

„Under the contract that Intact Media Group imposed to me by the signatures of the two managers, I, in my capacity as coordinator of the Investigation Department, was to be transformed into a mere tool of the political and business interests of the owners (as can be seen in the manner in which the general manager, Mr. Codruț Șereș [the manager of Intact – the editor's note], dealt with the companies that did not have advertising or with which he had a judicial dispute or with the political opponents of Mr. Dan Voiculescu)”, said Stelian Negrea in a document sent to the National Council of the Audiovisual (NCA). The letter mentioned the media lynching targeted at the opponents of the political alliance of which Dan Voiculescu, the owner of the Intact corporation, was a member. Another purpose was to obtain advertising from private companies<sup>157</sup>. Moreover, the journalist was supposed to operate on the basis of a commercial contract that provided for „sanctions of EUR 100,000 damages” for „discrediting, by means of statements or any other attitude or means, individually or collectively, the persons in the current or future management of the beneficiary, or the Beneficiary or the Beneficiary's Affiliates<sup>158</sup>”.

ActiveWatch publicly condemned the existence of the contract by means of which Intact imposed the journalists such political and economic interferences with respect to the editorial content. „Dan Voiculescu and his family have managed to prove, once again, that "Berlusconization" is a threat against the freedom of the press<sup>159</sup> – the organization specified, in a press release.

Pursuant to the disclosures, even though it did not deny the existence of the contract made public by Stelian Negrea, Intact corporation sued Stelian Negrea and three employees of Evenimentul Zilei. We are talking about journalists Laurențiu Ciornei and Horia Ghibuțiu, as well as the newspaper's general manager, Claudiu Șerban, summoned before the court with respect to the articles published on the basis of the information offered

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<sup>156</sup> „The Iași Mayor's Office gives journalists cash in envelopes. CTP: <<It's bribe, it's scandalous!>>. Toni Hrițac: <<Journalists acting as pawns>>”, George Onofrei, Oradestiri.ro, October 14, 2011.

<sup>157</sup> „Stelian Negrea, ex Intact: I was to be transformed into a mere tool of the owner's political and business interests”, Carmen Maria Andronache, Paginademedia.ro, June 8, 2011.

<sup>158</sup> „The political and economic pressures at Intact and Adevărul Holding are unacceptable”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro.

<sup>159</sup> „The political and economic pressures at Intact and Adevărul Holding are unacceptable”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, May 10, 2011.

by Negrea. The hearing date was set for December 19, 2012<sup>160</sup>. IMG demands damages of EUR 100,000 in this lawsuit.

### **Adevărul Holding censored an investigation about a deputy**

PDL Deputy Cristian Boureanu prevented the posting on the Adevărul.ro website of an article regarding his businesses. The article entitled „Deputy Boureanu, swindler who uses the «homeless» method”, written by journalist Alex Nedea, was published on December 6 solely in the pages of the newspaper's print edition, not on the website, despite being the main story of the day<sup>161</sup>.

Contacted by FreeEx, the deputy admitted that he had contacted the newspaper after the investigation appeared: „This is why the article was not published on the website. I explained to other people in the editorial office that the information is not accurate. It is not the first time, and it won't be the last time when lies are being written about me”<sup>162</sup>. A phone call from the deputy was a sufficient reason for the article, which was a headline in the printed version, to not be posted on the website. Moreover, the deputy threatened the author of the article live on Antena 3: „The boy who wrote this will pay all my bank installments!”<sup>163</sup>.

However, after Alex Nedea, the author of the article, discussed on his own blog<sup>164</sup> the censorship act and after ActiveWatch sent a protect press release, Adevărul decided to publish the article<sup>165</sup>, accompanied by a note showing that „The publication of the subject on Adevărul.ro was delayed as a result of a decision assumed by the editorial manager of Adevărul Holding, Răzvan Ionescu”. The general manager of Adevărul Holding, Peter Imre, refused to comment the situation.

### **Conclusions:**

- **The authorities and the politicians continue to use public funds trying to buy out the press' affability.**
- **The dangerously close relations between certain media managers or owners and the political and economic environments sometimes jeopardize editorial independence.**
- **Media continues to be used by its owners as a weapon in view of obtaining political and economic advantages.**
- **Media owners and managers are willing to sacrifice journalists or editorial products to avoid ruining their relationships with the guests that bring them an audience.**
- **The economic crisis and the limitation of the advertising market have allowed advertising clients to increase their pressures on the press.**
- **Press distribution remained a segment that is vulnerable to censorship acts.**

### **Recommendations for journalists and editors:**

<sup>160</sup> „Three EVZ employees, sued in the Stelian Negrea – Intact case”, Carmen Maria Andronache, Paginademedi.ro, June 6, 2011.

<sup>161</sup> „Censorship at Adevărul: First page article, prohibited on the website”, Petrișor Obae, Paginademedi.ro, December 6, 2011.

<sup>162</sup> „Adevărul Holding censored an investigation regarding a deputy”, Blog.ActiveWatch.ro, December 7, 2011.

<sup>163</sup> „Boureanu, accused of swindling EUR 250,000 from a bank: The journalist who wrote that shall pay my credit”, A1.ro, December 7, 2011.

<sup>164</sup> „Shock. Printed press will not die. This is the proof!”, Cupresadeprete.wordpress.com, December 6, 2011.

<sup>165</sup> „Deputy Boureanu, swindler who uses the <<homeless>> method”, Alex Nedea, Adevărul.ro, December 7, 2011.

- **Firmly distance yourselves from any attempts at editorial pressures (and interferences) and publicly notify any such situations.**
- **Invoke the conscience clause in the collective employment contract.**
- **Inform the media organizations if you are victims of pressure or censorship acts.**
- **Avoid accepting editorial products sponsored by politicians, authorities or companies, which are conceived as propagandistic materials.**

#### **Recommendations for media owners:**

- **The investments of dozens of millions of Euros failed to decisively change the behavior of the electorate. Stop investing in the press with such goals in mind, because you are decreasing the press' credibility and wasting your money.**

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

- **Support the press that distributes relevant and verifiable editorial content. In its turn, it supports a proper environment for innovation, a healthy business environment and a competent political class.**
- **Freedom of speech and freedom of the press are vital for a democratic society. Support and protect freedom of speech and diversity of speech in all of its forms.**
- **Respect the press' editorial independence. A free and trustworthy press is the most appropriate environment to convey your messages.**

#### **Aggressions, threats, insults**

In Romania, the press and the exercise of the right to free speech are (still) carried out at the risk that the journalists and other citizens should end up with swear words, bruises or fines. Thus, in 2011, there were numerous occurrences in which journalists performing their duty were assaulted, threatened and insulted.

#### **The chairman of the Caraş-Severin County Council hit journalist Vali Popovici**

In January, Antena 1 reporter Vali Popovici fainted and was taken to the hospital, after being assaulted by Lonesie Ghiorghioni, vice-president of the Caraş-Severin County Council, at the General Meeting held at the Bucova "Joint Properties'Administration". Bothered by the journalists' presence at the event, Ghiorghioni lunged at them, to kick them out of the premises. "I think he was foaming at the mouth, he was transfigured, his face was deformed by an inexplicable hatred, his eyes were bulging, his face was red and he was trying to kick us out. He was hitting me, shoving me in my left shoulder. I was kicked in the ribs, in my abdomen and pushed by him like you would be hitting something that is stuck in a door. I felt a very strong pain in the right shoulder, there was some decoration on the wall that jabbed into my shoulder. Following Mr. Ghiorghioni's advice, other youngsters, whom I had seen earlier at the door of the pub across the road, junged at us, at the camera operator and at myself, shouted abuse at me, pushed me around. I was assaulted both physically and verbally"<sup>166</sup>, stated journalist Vali Popovici. Initially, the

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<sup>166</sup> The Vice-president of the County Council to the journalist he assaulted: <<If you want war, I'll give you war>>", Daniel Stanciu, Adevărul.ro, January 15, 2011.

aggressor denied the events: „I never assaulted anyone in my life. If he's got the guts to say that I did, I'll bring a hundred people who were in the room, as witnesses. If he wants war, I'll give him war. I politely invited him to leave the room. When the bustle at the door occurred, I went there too, but to protect him, not to hit him”<sup>167</sup>.

Contacted by FreeEx, journalist Vali Popovici recounted that, shortly afterwards, Ionesie Ghorghioni publicly apologized, for which reason the journalist refrained from pressing charges at the Police. „He has been much more cooperative since the incident. It was a conjuncture, a tense situation”, the journalist declared for FreeEx.

### **The contempt of Euro-parliamentarians Vadim Tudor and George Becali for journalists**

Contacted by journalist Laurențiu Mișu, of România Liberă, in order to state their opinions with respect to a legislative initiative that proposed the implementing of psychologic and psychiatric control for all candidates to public positions, Euro-parliamentarians Corneliu Vadim Tudor and George Becali shouted abuse at the journalist, in February.

Euro-parliamentarian Vadim Tudor flared up immediately after journalist Laurențiu Mișu's introduction, by invoking a critical article about himself, published by România Liberă: „Mr. Mișu, how dare you call me after insulting me like that? [...] After calling your article <<Who is this Vadim Tudor?>>, you motherfucking punk!”<sup>168</sup>.

With a more "patient" approach, Euro-parliamentarian George Becali started by asking the journalist to never contact him again. "Don't you ever call me again, this is my point of view! (...) If you are crazy, you have no idea, I have been saying for two years and I have been organizing press conferences, I do not talk to journalists. I only talk live, on television. Don't you know that?"<sup>169</sup> – Becali told the România Liberă journalist. Irritated that Laurențiu Mișu insisted on obtaining a point of view, Becali continued by insulting him: „You're a retard! That's what you are! You don't understand this, you don't want to understand! [...] If you're an idiot and you don't understand that I don't talk to any journalist... [...] You are all a bunch of gits! Whatever a man might answer, you add your own words to it! [...]”. Asked by the journalist whether he talks the same way to foreign journalists, Becali added more insults: „Exactly the same, because I don't give a shit talking to them! Do you realize that? I don't give a shit how I talk to them. I don't pay any attention to them! [...] I don't pay any attention to them! (...) If you're an ass, keep on calling, if you're human, you won't be calling again, you hear me? In your stupid mind, you thought I have to answer to you, you thought you had to have my telephone number, huh? [...] Because it's interesting, you can suck my dick! (...) Fuck off! [...] Yes, blow me! Goodbye!”<sup>170</sup>.

In September, George Becali shouted abuse at another journalist, by telephone, live on the "The last hour": show of Realitatea TV: "You know what I propose? You're too stupid to be on TV. You fool, you jackass, you idiot... Don't you ever appear on TV, you're too stupid to do that. Never invite that jackass again. Stop inviting all the fools", Becali told journalist Ioan M. Ioniță in response to an irony that the latter directed at him. A few days later,

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<sup>167</sup> Ibidem.

<sup>168</sup> „Audio: How two Euro-parliamentarians, Vadim and Becali, shout abuse at the press (English version)”, Laurențiu Mișu, Andreea Pocotilă, Cristian Câmpeanu, RomâniaLiberă.ro, February 10, 2011.

<sup>169</sup> „Becali and Vadim shout profanities at the press. Listen to the recording”, Realitatea TV, Realitatea.net, February 10, 2011.

<sup>170</sup> Ibidem.

Becali relapsed and he shouted abuse at a female journalist who called to obtain a statement regarding the lawsuit in which Becali was accused of unlawful deprivation of freedom of the people who had stolen his car. "Are you crazy? Have I deprived anybody of freedom? [...] Get out of here. There is no accusation against me. This is a lie, it's bullshit. My car was stolen and I went to get my car and they arrested me. These are lies, I don't pay any attention to them [...] Well, then you suck my dick, ok?"<sup>171</sup>, said the Euro-parliamentarian.

Starting from the repeated attacks directed by Corneliu Vadim Tudor and George Becali at the press, author Brândușa Armanca wrote an article in which she criticized both their behavior and the journalists' passivity with respect to the assaults. „I don't understand how the Romanian journalists put up with the most unpalatable vulgarities with a smile on their faces and how they cannot live without the presence of the biggest roughnecks who, right now, are Gigi Becali and Vadim Tudor, the latter one being assiduously "repaired" by some channels. The excuse that he increases ratings does not stand, as the audience comparisons are rather unfavorable for them. But even if they do bring an audience, it still isn't acceptable that the trade should fall down, humiliated by the insults of the two. The appeal <<stop inviting them on the show!>> should be urgently applied both to Becali, and to Vadim, for a draining of the media space, as well as for the recovery of a minimum of dignity. It should be mandatory to summon them to court”<sup>172</sup>, Brândușa Armanca wrote.

### **Journalists attacked in Vama Veche**

On May the 1<sup>st</sup>, journalist Ilknur Pintilie, 4 months pregnant, was doing a live transmission from Vama Veche, when she was knocked to the ground by a young man. The ProTv Constanța correspondent was forced to end the transmission for an emergency medical examination<sup>173</sup>. The operator who was with her tried to catch the attacker, but he was assaulted himself.

During the same period, two other journalists, Adrian Olariu and Ionuț Samoilă of Realitatea TV, were assaulted shortly before going on the air. "We were getting ready to go live, we only had 30 more seconds to go. A guy came to us and we could see that he wasn't drunk, but he was on drugs, because his eyes were blurry. He started shouting, cursing and asking for money. He was telling us he wanted 1 Leu, that that was all he wanted. He grabbed the camera operator by the throat, he threatened him and then he came to me and head-butted me”<sup>174</sup>, journalist Adrian Olariu recounted.

### **The presence of the camera, a sign of „megalomania”, violently sanctioned**

Also in May, the editor-in-chief of the publication ZiarMM.ro, Ciprian Dragoș, filed a criminal complaint for assault against Maria Breban, the sister in law of Mircea Dolha, candidate for the Baia Mare mayor's office<sup>175</sup>. Journalist Ciprian Dragoș was filming, from the public space, an event that raised suspicions of election bribery: several persons allegedly received, for free, products from the store managed by the family of Maria Breban, one

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<sup>171</sup> „Gigi Becali shouts abuse when asked about his possible sentencing. Listen to the Euro-parliamentarian's reaction”, Elena Dumitrache, E-Politic.ro, September 30, 2011.

<sup>172</sup> „Stop inviting all the fools on television”, Brândușa Armanca, Revista22.ro, October 25, 2011.

<sup>173</sup> „Incredible! ProTv correspondent Ilknur Pintilie, attacked during live transmission in Vama Veche VIDEO”, Realitatea.net, May 1, 2011.

<sup>174</sup> „VIDEO/ Journalists assaulted in Vama Veche”, Valentin Ispas, Uups.ro, May 3, 2011.

<sup>175</sup> „Remember: The editor-in-chief of ZiarMM.ro, assaulted by the sister in law of candidate Mircea Dolha – The event was notified to the Baia Mare Police (VIDEO)”, Ciprian Dragoș, ZiarMM.ro, August 19, 2011.

nigt before the elections in which her brother in law ran for office<sup>176</sup>. Maria Breban asked the journalist to stop filming her and hit his camera and his hands. „I'm not giving you any interview, please, because there's nothing you can [do – editor's note]. Come when it's over and I'll tell you absolutely anything you want, ok? Don't be like that... Let me tell you something: you aren't allowed to film. This is my store, I pay here on the sidewalk. Is it normal for you to film me? Please, go away! What's your problem? Stop it! Stop the camera. Then I will do exactly as I please, if you come here all callous, I will respond in a callous manner, as you wish. If you come nicely and talk to me, I'll answer all your questions. If you come here to film, to act all megalomaniacal, I can't answer you. I'll act megalomaniacal too and we're even”, Maria Breban told journalist Ciprian Dragoş.

Contacted by FreeEx, journalist Ciprian Dragoş stated that the Public Prosecutor's Office decided not to commence the criminal prosecution of aggressor Maria Breban. „The gentlemen at the Public Prosecutor's Office said that it is not subject to criminal prosecution, even though my right to do my job was limited and I was offended, which could also be seen in my recording. Even though there was no material prejudice and my head wasn't cracked, that doesn't mean that what happened was all right”, the journalist declared.

### **The Dâmbovicioara Vice-president took a photo camera from a journalist**

At the end of May, journalist Răzvan Grigore, of the Evenimentul Muscelian publication in Câmpulung, was bullied and relieved of his photo camera by the former Vice-president of the Dâmbovicioara commune, Ion Popa Nica. The journalist was doing a piece on the investments made in the commune and had also photographed the aggressor's house in the process. „He asked me if I was doing a story and I told him that I wasn't. I went a few metres further, I took some more shots – I didn't even know that he had a cabin there and that was not the subject of my journalistic undertaking – and then I went back to my car. It was then that Mr. Nica accosted me again, he told me that my answer to him had been ambiguous and started pulling at me, demanding that I should give him my photo camera. When I didn't want to indulge him, he became aggressive and forced it out of my hands. He then returned to his cabin and I called 112 and asked the police for help”<sup>177</sup>, the journalist recounted. Although, initially, accused did not admit to his actions, and the police only opened a criminal prosecution file for theft, the accused returned the photo camera to the journalist after a few days<sup>178</sup>.

### **The president of the Brăila County Council talked to the journalists in a „suburban” manner**

On May 31, Gheorghe Bunea Stancu, the president of the Brăila County Council, committed a series of abuses with respect to the press, using an offensive language with several journalists present at a press conference<sup>179</sup>. The dignitary used words such as „slut”, „imbecile”, „impertinent” with respect to a female journalist and told a male journalist: „I don't know how serious you are. Looking at your face, I don't think you are a very serious man”. He claimed, about another female journalist, that „She's probably good at staying with her breasts in the sunlight, so that the mayors can fondle her. (...) Not at writing newspapers”<sup>180</sup>. Gheorghe Bunea Stancu then

<sup>176</sup> „Journalist, assaulted by the sister in law of a candidate at the Baia Mare mayor's office VIDEO”, Realitatea.net, May 9, 2011.

<sup>177</sup> „Sulică, investigated for theft”, N.Manole, Curier.ro, June 2, 2011.

<sup>178</sup> Ibidem.

<sup>179</sup> „Abuses against the press – Local electees of USL in Baia Mare and Brăila”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, June 9, 2011.

<sup>180</sup> „Video The President of the Brăila County Council shouts abuse at the journalists during a press conference”, Adevărul.ro, June 7, 2011.

threatened the journalists who recounted about him in a critical manner that he would withdraw their accreditation: „And to those who come here to speculate, I hereby categorically announce you that if you fail to get a normal approach, as a media instrument, with respect to us, as the Social Democratic Part, I shall withdraw your accreditation. I want to make this very clear to you. Stop all this punk nonsense”.

ActiveWatch – Media Monitoring Agency sent to dignitary Gheorghe Bunea Stancu an open letter<sup>181</sup> in which it drew his attention to the fact that the suburban language that he had used is not appropriate for the title and the public position that he holds. „Moreover, we are concerned to find out that you, a person holding an important public position in the Brăila county, are unaware of some elementary provisions of the Law on the access to information of public interest. Thus, we must remind you that <<Public authorities are obligated to grant, without discrimination, accreditation to journalists and representatives of the media >> (article 18, paragraph 1, Law 544/2001) and that <<Public authorities may refuse to grant accreditation or may withdraw the accreditation of a journalist only for actions that prevent the normal performance of the public authority's activity and that do not concern the opinions expressed by such journalist in the press, in accordance with, and to the extent of the law >> (article 18, paragraph 3, Law 544/2001). You also threatened that you shall no longer organize press conferences and that you shall force journalists to obtain information by filing applications for information, which you shall only answer within 30 days. We must also remind you that article 17 of the Law on the access to information of public interests states that: <<Public authorities are obligated to organize press conferences periodically, usually once a month, in order to communicate information of public interest >>” – the ActiveWatch specified in the open letter addressed to the dignitary.

### **Cristi Tabără, in conflict with a paparazzo**

During the night between June 2 and 3, journalist Cristian Tabără had an altercation with a paparazzo who insistently photographed him in traffic<sup>182</sup>. Pursuant to the photographer's telephone call to the emergency number 112, on the grounds that journalist Cristian Tabără allegedly took this camera's memory card, the Police questioned the two<sup>183</sup>.

### **Camera operator Ovidiu Roșca, beat up in front of the police**

ProTv Târgu-Mureș camera operator Ovidiu Marian Roșca was beat up by several villagers and required medical assistance in June, while filming a fire in the Eremitu Commune<sup>184</sup>. As a result of the fire, a man died and a few close friends of the deceased assaulted the camera operator and prohibited him from filming. All of this happened in the presence of a policeman, who not only did not come to the journalist's aid, but recommended him to stop filming. „The person that was assaulted should send me an official notification, so that I can further take the necessary steps”<sup>185</sup>, the prefect declared, at that time, as a sign of solidarity with the journalist.

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<sup>181</sup> „Abuses against the press – Local electees of USL in Baia Mare and Brăila”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, June 9, 2011.

<sup>182</sup> „Update Cristi Tabără signed a statement at the police precinct. The TV star quarreled with a paparazzo and grabbed the camera from his hand”, Andrei Rizescu, Adevărul.ro, June 3, 2011.

<sup>183</sup> „Cristi Tabără, interrogated by the police pursuant to a traffic baffle with a photographer”, V.M., HotNews.ro, June 3, 2011.

<sup>184</sup> „Târgu-Mureș: Journalist beat up in the presence of the police”, Claudia Sas, Adevărul.ro, June 9, 2011.

<sup>185</sup> „A journalist was beat up in the presence of a policeman”, A.B., CityNews.ro, June 9, 2011.

Ovidiu Roșca obtained a forensic examination report and filed a complaint with the police against his aggressors, two of which were identified. „I was on the public domain and I hadn't even begun to film when they started hitting me. I filed a complaint with the police and the aggressors were identified, but so far I have not been any results. I haven't been announced what sanctions were pronounced against them and against the policeman who failed to intervene”, Ovidiu Roșca stated for FreeEx. The camera operator did not sue his aggressors. „I would have wasted even more time and money in the trial and, with the laws in Romania being what they are, they wouldn't have gotten more than a fine anyway”, Ovidiu Roșca also stated.

### **Female journalists assaulted after a raid in the Chiliei Square in Constanța**

Journalists Diana Sobaru (ProTv Constanța correspondent) and Iulia Stanciu (Antena 3) were assaulted, in July, after the gendarmes and the officers of the Brigade for the Prevention of Organized Crime (BCCO) in Constanța raided a building in Chiliei Square and took into custody several persons suspected as being members of a human traffic network<sup>186</sup>. Immediately after the law enforcement agents left, the journalists who had remained to film on site, were surrounded by 20 persons, hit and pushed around. „The incident occurred when the cars of the law enforcement agents left. I tried to hail a cab, but nobody helped. Eventually, it was the gendarmes who stopped, turned around and escorted us”<sup>187</sup>, Iulia Stanciu declared. The police managed to identify two female aggressors and ordered each of them to pay a civil fine of Lei 500.

### **The manager of Oltchim Râmnicu Vâlcea assaulted journalist Tiberiu Pîrnău**

In August, the manager of S.C. Oltchim Râmnicu Vâlcea, Constantin Roibu, assaulted journalist Tiberiu Pîrnău, the manager of Ziarul de Vâlcea, who was filming a spontaneous protest taking place in the factory's yard, initiated by the employers sent on technical unemployment<sup>188</sup>. Constantin Roibu hit the journalist's camera and ejected him from among the protesters. „I was filming the trade union's protest, when Roibu suddenly lunged at me, to take the phone off my hands. He was mad and I was lucky that I quickly averted him. The Arpechim employees defended me, some even booed Constantin Roibu”<sup>189</sup>, Tiberiu Pîrnău declared.

### **Elena Udrea's brother threatens a journalist with a „head-butt”**

Also in August, Adrian Valentin Udrea, the brother of the minister (at the time) of Development, Elena Udrea, threatened a crew of Antena3 journalists who were trying to interview him in front of his residence. „Why are you filming me? Tell me, or I'll head-butt you!”<sup>190</sup>, he said to one of the reporters. Adrian Udrea ran after the Antena 3 crew, for the purpose of discouraging the filming. After the incident, Elena Udrea published on her blog an „Open letter to Mr. Dan Voiculescu”, the owner of the Intact corporation, whom she accused of „secret police maneuvers” and of the fact that he harasses her relatives with the help of his employees. "I demand that you cease following, intimidating and provoking my family. They are ordinary people, with normal reactions, who do not have the secret police practice of dissimulation and who wish for nothing else than to leave peacefully, away from the

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<sup>186</sup> „Raid followed by a scandal and the assault of journalists”, Răzvan Mihăilescu, TelegrafOnline.ro, July 14, 2011.

<sup>187</sup> Ibidem.

<sup>188</sup> „The manager of Oltchim Râmnicu Vâlcea assaulted the journalists who were filming a protest”, Realitatea.net, August 12, 2011.

<sup>189</sup> „The Oltchim manager, Constantin Roibu, assaulted a journalist during a protest taking place at Oltchim”, EvZ.ro, August 11, 2011.

<sup>190</sup> „Elena Udrea's brother assaults a crew of journalists. Udrea reacts on her blog”, Florin Ciocotișan, ImpactNews.ro, August 18, 2011.



cameras"<sup>191</sup>, the Minister wrote.

### **The employment contract of an aggressive security guard at the „Nicolae Iorga” high school was terminated**

In the autumn session of the high school graduation examination (August 2011), a security guard of the "Nicolae Iorga" high school in Bucharest hit a Realitatea TV camera operator and destroyed his camera, disturbed that he was filming him. The head of the security company terminated the aggressor's employment contract, and the representatives of the Bucharest Municipality's School Inspectorate and of the high school distanced themselves and publicly condemned this incident, in a press release<sup>192</sup>. „The Bucharest Municipality's School Inspectorate and the «Nicolae Iorga» Theoretical Highschool distance themselves from the incident that occurred today, during which an employee of the security company assaulted an operation of a television station. We believe that such incidents do not represent a good example for our students and affect the proper performance of the educational activities. The Bucharest Municipality's School Inspectorate shall seek, together with the local authorities, to ensure an environment of normality and safety for the students in all pre-university education institutions in the Bucharest Municipality"<sup>193</sup> – according to the press release.

### **Tennis player insulted a female journalist**

In September, former tennis player Năstase insulted a female journalist, offended that she had asked him about the lawsuit filed against a company that allegedly owed him money. "How can you ask me about that? The man who made you ask me is an idiot. I can see that you're blonde, and you know what they say about blondes, right? Take all the case files, not just mine. Aren't you a little bit ashamed? You asshole!"<sup>194</sup>, said the famous former tennis player Ilie Năstase, well-known for his outbreaks against persistent journalists.

### **Gabriel Bugnar, threatened by Cătălin Popa**

In 2011, Realitatea TV producer Gabriel Bugnar reported, several times, about the tensions to which the journalists in the editorial office were subjected „by ricochet”, because of the conflicts between Sorin Ovidiu Vîntu and Sebastian Ghiță (details in the „Media market” chapter of this report). In September, Bugnar wrote a sarcastic article on his blog, in which he claimed that Sebastian Ghiță was trying „to steal Realitatea TV”, an article pursuant to which he was threatened by Cătălin Popa, head of the news department. „I don't need any correction, you didn't do your homework, you're a hick, a boor [...], I'll sue you for slander and if I ever catch you on the street, I'll beat you up!”<sup>195</sup>, Cătălin Popa allegedly told him, bothered, not by the fact that Gabriel Bugnar had written in his article that Realitatea TV „was being stolen” with his help, but because Bugnar wrote that Popa had never been a reporter, which was false. A few days later, the Realitatea TV and România TV split occurred (details in the „Media market” chapter of this report), and Gabriel Bugnar chose to work for Realitatea, while Cătălin Popa chose România

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<sup>191</sup> „Open letter to Mr. Dan Voiculescu”, Elena Udrea, ElenaUdrea.ro, August 18, 2011.

<sup>192</sup> „A television team is assaulted, during the high school graduation examination, in the courtyard of the <<Nicolae Iorga>> High School”, Andreea Archip, Adevarul.ro, August 23, 2011.

<sup>193</sup> Ibidem.

<sup>194</sup> „Video Ilie Năstase relapses in Iași. He called a female journalist an asshole in front of dozens of children”, Ionuț Benea, Adevarul.ro, September 22, 2011.

<sup>195</sup> „Mr. Cătălin Popa: <<If I ever catch you on the street, I'll beat you up!>>”, Gabriel Bugnar, GabrielBugnar.blogspot.com, September 29,

TV.

### **Journalists assaulted by the employees of a restaurant in Eforie Nord**

In October, two crews of journalists from TVR and TV Neptun, who were filming a fire, were assaulted by the employees of a restaurant in Eforie Nord. Adrian Sandu (39 years old), Daniel Florian Mantea (35 years old), Gheorghe Tudor (38 years old) and Mircea Simionescu (26 years old) chased the journalists away, shouted abuse at them and pushed them around, despite the fact that a police crew was in the area. "Why are you filming us, man? Get out of here. Do you have any right to film us? I'll kick your teeth in, get out of here or I'll fuck you up... If you don't leave, I'll beat you senseless"<sup>196</sup>, the journalists were told by Adrian Sandu, one of the aggressors. According to a press release of Constanța County Police Inspectorate, the police identified the aggressors, commenced an investigation with respect to the perpetration of the deed of indecent behavior and disturbance of public peace and started an administrative investigation with respect to the passivity of the police crew who witnessed the incident<sup>197</sup>. The Constanța County Police Inspectorate also announced that none of the journalists filed a criminal complaint against the aggressors.

### **Crin Antonescu insulted several TVR journalists**

In October, PNL leader Crin Antonescu called the head of the TVR News Department, Rodica Culcer „a shameless pensioner” and called journalists Ioana Lupea and Mircea Marian "losers". The politician accused the journalists that they criticize him on public television „without any argument, in a awful manner"<sup>198</sup>. „What Crin Antonescu is doing, Victor Ponta is doing with him, represents nothing else than an attempt to intimidate an uncomfortable journalist. Actually, I'm not their only target. Do are my colleagues Ioana Lupea and Mircea Marian, whom he called <<losers>>. It is a political pressure of the purest essence"<sup>199</sup>, Rodica Culcer wrote on her blog. In March 2012, Crin Antonescu accepted the invitation of TVR Info and participated in a show the anchor of which was Ioana Lupea<sup>200</sup>.

### **Mitică Dragomir, the League's "hooligan"**

Freshly out of the hearings of the National Anti-Corruption Department, in a case file in which he was accused of abuse of office, Dumitru („Mitică”) Dragomir, president of the Professional Football League (LPF), acted like a hooligan in his relationship with the press, in October. „Line up here!”, he told the journalists. „I have been accused, crazy people, not indicted!! I'm too handsome, too sexy, this is why the criminal investigation began in the first place! You want blood, man, that's what you want!”, Dragomir continued. „Why are you coming after me? What do you have against me, why are you not letting me get out of here? Damn you all to hell! Who are you to

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2011.  
<sup>196</sup> „The men who assaulted the journalists on the Belona beach in Eforie Nord have been identified”, Mădălina Poenaru, ReporterNTV.ro, October 20, 2011.  
<sup>197</sup> „The men who assaulted the journalists on the Belona beach have been identified”, Poliana Barabanciu Căpitan, JurnalDeConstanțaOnline.ro, October 20, 2011.  
<sup>198</sup> „Crin Antonescu: Rodica Culcer, <<a shameless pensioner>>”, C.C., HotNews.ro, October 28, 2011.  
<sup>199</sup> „Shameless pensioner”, Rodica Culcer, RodicaCulcer.ro, October 29, 2011.  
<sup>200</sup> „Crin Antonescu, in a dialogue with the <<losers of the press>>”, Carmen Vintilă, EvZ.ro, March 22, 2012.

commit such abuse? Stepping on my shoes, punching me in the back! Look what you did to my shoes, man!”<sup>201</sup> – the LPF president also said.

### **Two criminal files for a priest who was „upset” with the journalists**

Priest Sorinel Ionică, vicar of the Pietricica Church in Piatra Neamț, ended up with two criminal files in the penultimate month of the year, for assaulting two female journalists who reported on the fire that occurred at the priest's villa<sup>202</sup>.

The priest first assaulted a journalist who was filming the fire across from his house, he hit her and forced the photo camera out of her hands, after which he went, together with his wife, to the editorial office of the Ceahlăul newspaper, where he threatened another female journalist, who had reported on the incident. „What right of reply? What lawsuit? That's not how I do things. I make my own justice. I'll have her head! Why did she have to say bad things about me? Why did she write that I beat up those journalists? It's not like I beat her up. She made a fool out of me and she ruined my image, so she has to pay! If I have to, I'll go to jail too, as long as I can make justice for myself! This is how my parents and my grandparents taught me. Whoever does me any harm without being provoked, should pay. This should be very clear!”<sup>203</sup>, the priest said in the editorial office. „I'll cut your throat, bitch! I'll destroy you!”<sup>204</sup>, he told the journalist.

### **Antena 3 journalists, assaulted by revelers in a city hall**

A crew of Antena 3 journalists were assaulted in November in the Valea Dragului Commune, located in the Giurgiu County, by the guests partying in the city hall's premises, at the birthday of mayor Chiriță Dragne<sup>205</sup>. A few of the revelers pushed the Antena 3 reporter and camera operator, hit the camera, threatened them and cut out the tires of their car. The police forces appeased the conflict, and the public prosecutors opened a criminal file for destruction of property<sup>206</sup>.

### **Mihai Gâdea, threatened by the husband of the Government's general secretary**

TV producer Mihai Gâdea recounted, in November, that he had received several threatening and abusive messages from Aurel Teodorescu, the husband of Danielei Andreescu – general secretary of the Government. Gâdea said that he would press criminal charged made one of the messages public, a message in which Aurel Teodorescu wrote: „Someday, I shall spit in your face, in the presence of good faith citizens, like myself”<sup>207</sup>. The incident occurred after Antena 3 published a material according to which Daniela Andreescu had hired her relatives in the institution where she was working and had helped them conduct business with RA-APPS<sup>208</sup>.

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<sup>201</sup> „<<Damn you all to hell!>> Incredible reaction of the LPF head towards the journalists! Watch a recording of all the events”, Costin Negraru, ProSport.ro, October 28, 2011.

<sup>202</sup> „Priest at war with the journalists”, Portal.Radiolași.ro apud Monitorul de Neamț, November 9, 2011.

<sup>203</sup> „I'll cut your throat, bitch! I'll destroy you!”, Cristina Mircea, ZiarulCeahlăul.ro, November 9, 2011.

<sup>204</sup> Ibidem.

<sup>205</sup> „Antena 3 journalists were assaulted in the Valea Dragului commune”, Ioana Mureșan, Business-Forum.ro, November 14, 2011.

<sup>206</sup> „Update/ Journalists assaulted by the friends of a mayor in Giurgiu”, Observator.a1.ro, November 15, 2011.

<sup>207</sup> „Mihai Gâdea made one of the messages received from Daniela Andreescu's husband public: I shall spit in your face”, M. Z., Antena3.ro, November 24, 2011.

<sup>208</sup> Ibidem.

### **The head of state insulted the correspondent of the Associated Press, Alison Mutler**

In December, Traian Băsescu, the president of Romania, insulted journalist Alison Mutler, the correspondent of the Associated Press in Romania. „I asked him about the CIA's secret prisons in Romania, information which was published in the press, about an alleged prison somewhere North of Bucharest, and at first, he answered that my question was off topic, and then he said: <<Ask Mr. Nistorescu and he will tell you, he's the one who gives you instructions on how to write, in accordance with the agencies >>”<sup>209</sup>, Alison Mutler recounted. [Editor's note: Cornel Nistorescu, editor-in-chief of the Cotidianul publication, is a journalist well-known for his anti-Băsescu opinions.]

The Romanian Foreign Press Association publicly sanctioned the incident, in a press release: „Mr. President's reaction is not appropriate for a state dignitary during a press conference. The public office implies the obligation to grant the press the right to ask any legitimate question for the purpose of public interest during a press conference, even if the dignitary does not wish to answer said question. Mr. Băsescu's comment was inappropriate and undignified for an official figure. The press, be it Romanian or foreign, has the mission to inform public opinion on themes that are more or less uncomfortable. The press also has the right to ask such persons questions regarding such subjects, especially since Romania is a democratic country, member of the European Union and NATO”<sup>210</sup>.

### **Andras Istvan Demeter, president of the public radio, threatened and blackmailed**

Andras Istvan Demeter, the president of the Romanian Radiobroadcasting Company (SRR), filed a criminal complaint with the Public Prosecutor's Office affiliated with the High Court of Cassation and Justice, in December, for: threats, blackmail, offence, instigation to discrimination, public instigation to commit crimes<sup>211</sup>. Andras Istvan Demeter claimed that an unidentified perpetrator sent him several messages (e-mails and text messages) in which he/she was threatening and blackmailing him and implied that he/she was watching his wife and child, for the purpose of forcing him to resign from his position<sup>212</sup>.

„The fact is that on December 11, 2011, I received two text messages in which was given the deadline of Friday, December 16, 2011, in order to resign and leave Bucharest together with my family, and in the event that I did not <<split>>, I would see that <<the rotavirus was merely a joke, compared to what follows>>, the message alluding to the fact that the person threatening me was guilty of infecting my child with the rotavirus. Moreover, wording such as <<take your shit and go back to Timișoara with Laura and the baby>>, <<is Laura still walking on Moșilor and in the park with the baby?>>, are a clear infringement of the mental freedom of my family and, implicitly, the normal performance of social relations” – the president of the SRR specified, among others, in his criminal complaint.

### **Abuses, aggressions and side-slips during the January 2012 protests**

<sup>209</sup> „Amnezic România”, Mircea Toma, KamikazeOnline.ro, December 9, 2011.

<sup>210</sup> „Foreign journalists sanction president T. Băsescu's side-slip”, Cotidianul.ro, December 8, 2011.

<sup>211</sup> Criminal complaint no. 10613, filed by Andras Istvan Demeter, Public Ministry, Public Prosecutor's Office affiliated with the High Court of Cassation and Justice, December 14, 2011.

<sup>212</sup> Ibidem.

Year 2012 got off to a bad start for the freedom of the press, as many journalists reporting on the country's street protests were assaulted by the law enforcement agents and by the protesters. Also, during the period, there were cases when the law enforcement agents violently and abusively stopped the peaceful protests of the people who were challenging the dysfunctions of the democratic system and the social and economic issues existing in Romania. These serious abuses, corroborated with the disproportionate reaction of the law enforcement agents to the protests that began peacefully, led to inciting and radicalizing the protesters and resulted in scenes of urban violence.

**Abuses and aggressions.** On January 14, in Ploiești, several journalists and camera operators were threatened, insulted and assaulted by the protesters. The demonstrators became aggressive, for fear of being identified and fined for participating in a spontaneous protest, by means of the video recordings<sup>213</sup>. During the same night, in Bucharest, **an Antena 3 camera operator** was hit with a rock thrown by the protesters, and required assistance from an ambulance<sup>214</sup>. Several protesters in the University Square threw rocks at the **car of the TVR crew** and shouted abuse at the journalists and operators, some of them motivating that public television broadcasted biased information with respect to the governing politicians<sup>215</sup>.

During the same evening, several citizens met with abuse from the authorities. **Ionuț Chițulescu** reported that he had gone out to meet a friend, when he was brutally immobilized by a gendarme who caught him by the arm, twisted it and asked him to follow him<sup>216</sup>. The man was elbowed in the rib, he was taken into custody without being told why, he was searched, photographed, forced to turn off his mobile phone and pushed in a patrol wagon, where he stayed for approximately half an hour, with his hands on his head, after which he was fined, being accused of breaching Law no. 61/1991. The gendarmes told the people in the patrol wagon that if they didn't sign the protocols for disturbing public peace, they shall get even bigger fines at the station. Ionuț Chițulescu only signed after it was recorded in the protocol that he did not admit his deed, and he subsequently requested the help of a non-governmental organization (APADOR-CH). That evening, **M.Ș.** was at the University fountain and recounted that he was associated by the gendarmes with a group of protesters who were throwing stones, and as a result was taken into custody, together with a few other persons, told to identify themselves, photographed and forced to sign a protocol for a fine of Lei 100, for disturbing public peace<sup>217</sup>. M.Ș. asked the help of APADOR-CH, classifying the officers' actions as abusive. **Bogdan Țiru**, another citizen, recorded with his mobile phone a cordon of gendarmes, also on January 14, when he was hit by one of them with his shield in the head and bullied in order to take his phone<sup>218</sup>. **Andrei and Augustin Ristache** (son and father) participated in that evening's peaceful protests and recounted that, after leaving the University Square, they were stopped by two gendarmes, who hit Andrei Ristache, and, when Augustin Ristache intervened, he was hit too, after which they were allowed to go<sup>219</sup>. Shortly, they met with another group of violent gendarmes who hit them, knocked them to the ground and led them to

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<sup>213</sup> „Journalists assaulted in the Ploiești protests”, Realitatea.net, January 14, 2012.

<sup>214</sup> „Video The University Square, the most violent protests since the miners' protest. Gendarmes claim that the pro-Arafat protest turned into the fight of the football "Ultras" fans", News Department, HotNews.ro, January 14, 2012.

<sup>215</sup> „Violent protest in the University Square: The gendarmes fought with the protesters VIDEO”, RTV.net, January 14, 2012.

<sup>216</sup> „Report regarding the cases of the persons who asked APADOR-CH for help, notifying abuses caused by the law enforcement in the context of the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>217</sup> Ibidem.

<sup>218</sup> Ibidem.

Police Precinct 17, in a patrol wagon, ignoring Andrei Ristache's request to first take his father to the hospital. Andrei Ristache called the emergency number 112 and the ambulance took his father to the Emergency Hospital, while his son was kept at the station for four hours, ordered to identify himself, photographed and fined Lei 200 for disturbing the public peace. He signed the protocol, mentioning that he did not admit to his action. Andrei and Augustin Ristache obtained forensic examination certificates from the Forensic Medicine Institute and medical certificates from the University Emergency Hospital, for "level 0 minor head injury and thoracic and abdominal injury" and "level 0 minor head injury, thoracic and abdominal injury, pelvic and right hand injury", respectively. The two men sought legal assistance.

On January 15, in the University Square, **reporter Petre Nechita**, of Antena 3, and the operator accompanying him, **Dragoş Stoian**, were caught in a bustle, hit with a metal chain and verbally assaulted by a few protesters<sup>220</sup>. Their colleagues, **Alexandru Căpraru**, **Andrei Ferariu** and **Carmina Othman** fell, in their turn, victims of some protesters' violence. During the same evening, journalists **Cătălin Lupăşteanu**, of Mediafax, and **Petru Zoltan**, of Jurnalul Naţional, were assaulted by the gendarmes, close to the University Square, even though their press credentials were in plain sight<sup>221</sup>.

It was during the same evening that the gendarmes abusively held the editor of DeCe News, **Lucian Negrea**, hit him, took his fingerprints and fined him Lei 200 for disturbing the public peace. „I was still trying to yell at them to stop hitting me. When hearing that I was a journalist, they were hitting me even harder. They were hitting me with hatred. It was genuine hatred. At some point, one gendarme shouted: <<Here's some more! You protested against Băsescu, huh? Here's some more! Are you gonna protest against Băsescu now?>>”<sup>222</sup>, Lucian Negrea recounted. As a result of the blows, the journalist required medical intervention and obtained a forensic examination report.

During the same evening, a few protesters shouted abuse at, and hit the camera of freelance journalist **Vlad Ursulean**<sup>223</sup>, and some passersby came to his rescue. Vlad Ursulean recounted that the phrase that saved him was: „I'm only doing my job!”<sup>224</sup>. During the same period, he was the victim of an internet attack: his website was erased (by accident or not) after he posted an article regarding the protests<sup>225</sup>. The article was taken over, as a sign of solidarity, by several websites, newspapers and blogs, until the reporter managed to recover his information, with the help of the hosting company.

**Two young editors** (25 and 26 years of age, respectively) of the culture website TuŞtiai.ro were assaulted by the protesters and then taken into custody by the gendarmes, also on March 15, despite the fact that they said they were not protesters, but journalists, and that they were hurt. „Are you from a culture website? Take your culture website and bring it into the patrol wagon”<sup>226</sup>, said one of the gendarmes, without knowing that he was

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<sup>219</sup> Ibidem.

<sup>220</sup> „Antena 3, the most reporters injured at the Capital protests - VIDEO”, Click.ro, January 19, 2012.

<sup>221</sup> „The Mediafax and Jurnalul Naţional journalists, beaten up by an angry shield bearer VIDEO”, Petru Zoltan, Jurnalul.ro, January 17, 2012.

<sup>222</sup> „Attack against the press: DeCe News editor beaten up and humiliated by the gendarmes for having a journalist credential”, Lucian Negrea, DCNews.ro, January 16, 2012.

<sup>223</sup> Reporter Vlad Ursulean is a joint author of this report.

<sup>224</sup> „The dormant youngsters throw rocks. <<We are fucking angry!>>”, Vlad Ursulean, Vlad.Ursulean.ro, January 16, 2012.

<sup>225</sup> „The dormant youngsters throw rocks. <<We are fucking angry!>>”, Vlad Ursulean, Blog.ActiveWatch.ro, January 16, 2012.

<sup>226</sup> „Take your culture website and bring it into the patrol wagon - video”, TuŞtiai.ro, January 18, 2012.

being filmed, right before taking them into custody. The two then recounted, on their website, that the incident actually helped them. „Our website traffic increased and now we're trying to maintain it there. We are apolitical, we're doing our job, minding our own business. Honestly, we actually thank that gendarme [...]. We have nothing to object, the man was just doing his job”<sup>227</sup>, said the editors of TuȘtiai.ro.

Also on January 15, other citizens had to deal with the disproportionate reaction of the law enforcement agents. **Alexandru Trandafira** filmed a group of protesters throwing rocks at the gendarmes and then joined some reporters who captured the moment when a protester was immobilized and beaten up by the gendarmes<sup>228</sup>. He recounted that a gendarme tried to prevent him from, kicking him with his foot and his elbow until he dropped the phone he was recording with and part of its components ended up in the gendarmes' patrol wagon. When he tried to take them back, Alexandru Trandafira was taken by the gendarmes, forced into the patrol wagon and taken to Police Precinct 18, where he was photographed, fingerprinted and fined Lei 500 for allegedly throwing blunt objects. He signed the protocol, but mentioned that he did not participate in the violent actions and subsequently sought legal assistance. Also in the evening of January 15, **M.N., P.F.** and **Horvath Csongor** recounted that they, too, were taken into custody, without any reason, and kept in the police precinct for several hours<sup>229</sup>. Horvath Csongor refused to sign the protocol and was held at Police Precinct 9 for six hours, after which he was allowed to leave and, on February 8, two police officers gave his mother a protocol, without the proof of communication. According to the protocol, Horvath Csongor had been fined Lei 200 for „breaching several social coexistence, public order and peace”<sup>230</sup>. Both Horvath Csongor and M.N. și P.F., who were in similar situations, sought legal assistance.

On January 16, Bucharest resident **Mihai Petrescu** and two friends of his, crossed paths with a group of people who were being followed by the gendarmes and were surrounded by the law enforcement agents, together with approximately 40 people<sup>231</sup>. Despite the fact that none of the persons in the group behaved violently, the gendarmes used tear gas. The women in the group were allowed to leave, and the men were taken to Police Precinct, asked to identify themselves, fingerprinted and photographed. Mihai Petrescu refused these procedures and signed the protocol by which he was being fined Lei 200, next to the mention that he did not admit to the action for which he was being sanctioned. He sought legal assistance. The same group surrounded by the law enforcement agents included **Augustus Costache**, who was going shopping<sup>232</sup>. He was kept at the precinct for 4 hours and accepted to sign the protocol, but subsequently sought legal assistance. On January 16, in Bucharest, 113 persons were taken into custody in the University Square and Nicolae Bălcescu Blvd. areas, part of these persons for their alleged "intention to block the traffic", according to the Gendarmerie.

Despite protesting in a non-violent manner, **Narcis Iordache**, editor of the România Curată (Clean Romania) website, was taken into custody, on January 19, together with other young people, and taken to Police Precinct 11 to be fingerprinted and photographed. Narcis Iordache refused the fingerprinting (although the policement

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<sup>227</sup> „Th culture website inside the patrol wagon thanks the gendarmes”, TuȘtiai.ro, January 27, 2012.

<sup>228</sup> „Report regarding the cases of the persons who asked APADOR-CH for assistance, claiming abuses of the law enforcement agents during the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>229</sup> Ibidem.

<sup>230</sup> Ibidem.

<sup>231</sup> „Report regarding the cases of the persons who asked APADOR-CH for assistance, claiming abuses of teh law enforcement officers during the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>232</sup> Ibidem.

claimed, erroneously, that it was mandatory), but was fined for disturbing the public order and peace. „What happened to the law enforcement's obligation to inform you of your rights when you are taken into custody in one way or another and involved in procedures which many people, especially those who never dealt with the Police before, do not even know? What will be the use of the databases in which the Police abusively gather fingerprints, particular signs and photographs of people who are not criminals, but only came out into the street to protest against their Government?”<sup>233</sup>, Narcis Iordache subsequently wrote. He sought the assistance of APADOR-CH. **Director Ad. Vlad**, who was recording the protests, was also a victim of the Gendarmerie's abuses: he was hit by several gendarmes with their sticks and forced to erase the images that he had photographed, after which he was taken to the precinct, photographed and fingerprinted without being informed that he could refuse the procedures, and received a warning<sup>234</sup>. Ad. Vlad decided to file a criminal complaint against those that were personally guilty of depriving him of his freedom for approximately three hours and the violent manner in which they did it<sup>235</sup>.

In the course of the same evening, other citizens were also brought to Precinct 11, who had been taken into custody without any grounded reason, among which was **Bogdan Moldoveanu**, who subsequently sought legal assistance<sup>236</sup>. He refused to sign the protocol and mentioned in the form that he did not admit to the actions of which he was being accused, but accepted to be fingerprinted and photographed, as he did not possess sufficient legal knowledge on the basis of which to refuse these procedures, which the law enforcement said were „standard”<sup>237</sup>. Also on January 19, **Dan Popescu**, the owner of a Bucharest art gallery, was very close to being abusively taken into custody himself, only for being in the area, and witnessed as several peaceful protesters (or simple passersby) were taken into custody, and were fined at the precinct. „It all boils down to an issue of substance: the gendarmes' reaction in his case was completely disproportionate and random. At least two people were taken from the sidewalk by masked people who did not identify themselves and whom I hear are still paid from the taxpayers' money”<sup>238</sup>, Dan Popescu wrote on his blog.

During the protests, the Gendarmerie and the Police committed a series of abuses that resulted in the infringement of several fundamental rights, such as the right to freedom of speech, the right to freely gather and the right to free movement. During that period, the law enforcement abusively took into custody citizens who were protesting in the University Square, assaulted citizens who were recording the incidents taking place in the square, but without taking part in them, limited the right to free movement of certain citizens from the province, who wanted to travel to Bucharest in order to join the protests in the University Square, implemented security checks in a public space, abusively asking citizens in the area to identify themselves.

The Reporters without Borders and ActiveWatch organizations condemned the abuses and aggressions and

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<sup>233</sup> „ABUSE: The police are creating databases with the fingerprints and photographs of the protesters in the University Square. We have an AUDIO proof”, Narcis Iordache, RomâniaCurată.ro, January 20, 2012.

<sup>234</sup> „Report regarding the cases of the persons who asked APADOR-CH for assistance, claiming abuses of the law enforcement officers during the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>235</sup> Ibidem.

<sup>236</sup> „Report regarding the cases of the persons who asked APADOR-CH for assistance, claiming abuses of the law enforcement officers during the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>237</sup> Ibidem.

<sup>238</sup> „Romania – a police state!”, Dan Popescu, Psihopompex.blogspot.com, January 20, 2012.



send the authorities an open letter<sup>239</sup>, in order to remind them that their main role should be to provide the citizens' protection in public gatherings, to that they may exercise their constitutional rights. The two organizations demanded accountability from the law enforcement agents, as well as the use of force with the utmost prudence and only as a last resort, against the protesters committing acts of violence. ActiveWatch and Reporters without Border requested the law enforcement agents to respect and to ensure the protection of the journalists and of the people documenting the situation on site. „We demand the identification and the sanctioning of the gendarmes, the policemen and the protesters who assaulted the journalists or the citizens who were filming or documenting the incidents going on the University Square, as well as of those who prevented the free movement of some citizens towards the Capital city and in the Capital city's public spaces. We also recommend the journalists to be prepared to cover such events that may also entail violent confrontations, to carry distinctive equipment and clothing, so that they can be easily identified by the law enforcement agents and the protectors” – the two organizations also specified in the open letter addressed to the authorities.

The APADOR-CH NGO concluded, among others, in a report, that „most interventions were not directly intended to ensure or to restore public order (duties which are incumbent upon the Gendarmerie, according to Law. 550/2004), but are rather acts of harassment of the protesters for the purpose of discouraging the citizens' participation in street manifestations, including those of a non-violent nature”<sup>240</sup>. According to the organization, „Given the similarity of the procedures followed by the gendarmes, it follows that the incidents described in this report were not accidental situations, but the result of the manner in which the gendarmes have been trained to act”<sup>241</sup>.

In April 2012, ActiveWatch<sup>242</sup> and APADOR-CH<sup>243</sup> organized, at the Parliament, the debate „Romanian Gendarmerie: between the Constitution and Law 60/1991”. The event marked the anniversary of four years since the violent events that occurred during the NATO Summit in Romania, when approximately 50 Romanian and foreign young people were assaulted and deprived of their freedom by agents of the Romanian Gendarmerie. The debate also approached recent abuses committed by the law enforcement agents, including those in January 2012, with respect to which the representatives of the Gendarmerie admitted that there had been isolated situations in which employees of the association did not act quite in accordance with their mandate, but said that those cases were being investigated and could not be generalized. Pursuant to the discussions, the participants in the event (representatives of the Romanian Gendarmerie, deputies and senators belonging to the Human Rights Commissions, representatives of the Ministry of Administration and Internal Affairs, journalists and representatives of civil society) concluded that it is necessary to amend/clarify certain legislative provisions that leave room for abuse (i.e.: certain provisions of the Law on Public Gathering).

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<sup>239</sup> „Journalists assaulted during last days' protests. Abuses of the Gendarmerie against the citizens”, ActiveWatch – Media Monitoring Agency & Reporters without Borders, ActiveWatch.ro, January 17, 2012.

<sup>240</sup> „Report regarding the cases of the persons who asked APADOR-CH for assistance, claiming abuses of the law enforcement officers during the street protests”, APADOR-CH, Apador.org, April 2, 2012.

<sup>241</sup> Ibidem.

<sup>242</sup> „Cristian David: <<The 2008 intervention of the Gendarmerie represents an embarrassing and unpleasant matter>>”, ActiveWatch.ro, April 3, 2012.

<sup>243</sup> „The gendarmes beat you up out of personal conviction, not because they have orders from their superiors”, APADOR-CH, Apador.org, April 3, 2012.

**Journalistic side-slips.** During the same period, a series of media organizations signaled the presence of some serious side-slips of (part of) the press in reflecting the protests<sup>244</sup>. There were cases in which the press deviated from its mission to accurately and impartially inform the public, to the detriment of satisfying public interest. According to the ActiveWatch, CJI, CRJI, AJR ARIADNA, SJ Galați and PublicMedia organizations, the side-slips consisted, mostly, of: abandoning the neutrality and the equidistance required by proper journalistic practices, emphasizing sensationalism and a defective checking of information.

The deviations from professionalism took multiple forms and materialized in situations such as: overt instigation to various acts, whether it was calling people to protests or discouraging them from protesting; the implicit and explicit association of a social group (for example, sports fans galleries) with violence (most of the journalists took over and transmitted information regarding acts of violence committed by "Ultras" football fans, without thoroughly checking the authenticity of the sources).

Furthermore, it was the Gendarmerie's position that was almost exclusively broadcasted; the supporters' point of view was rarely presented, when they were brought such accusations. Also, the reality in the field was reflected in a distorted manner, because of the way in which the speakers' selection was made, and the cameras' positioning often conveyed a ridiculous or falsely aggressive image of the Square. The concern for sensationalism ridiculed the protest and did not reflect the diversity of the participants and of the opinions expressed. Over-the-top or steamed up discourses of TV commentators in the studio or of reporters were promoted, while the images they were commenting on showed calm situations.

Also, the reporters or the hosts often displayed a defiant or aggressive attitude towards some of the protesters or the guests in the studio. Some of the hosts abandoned their primary role in favor of overt political activism in some debate shows and certain themes were imposed, by means of questions posed to the protesters, which resulted in the expression of points of view that rather belonged to the hosts more than anybody else. Furthermore, an idea was also conveyed that the groups in the Square acted in favor of certain political players, on the basis of information the source of which was not specified, and accusations unsupported by evidence were launched against those who equaled governing political players to the opposition ones.

Most of the time, the journalists did not go to the police precincts, where the protesters taken into custody by the gendarmes were taken, and did not recount what happened to them. Another display of unprofessionalism was the excessive broadcasting (sometimes, without specifying the date) of the images with acts of violence, while a peaceful protest was in fact going on in the Square.

Under such circumstances, the aforementioned organizations made an appeal to journalists, to recount the ongoing events in an accountable, balanced and unbiased manner, especially considering the strong impact that they could have over the Romanian social and political life. Media organizations made the following recommendations to the journalists: to recount the events on a factual basis, without spreading unverified rumors

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<sup>244</sup> „Press release. Serious side-slips of the press in reflecting the protests”, ActiveWatch – Media Monitoring Agency & the Center for Independent Journalism & the Romanian Center for Investigative Journalism & the Romanian Association of Female Journalists ARIADNA & the Galați Journalists' Society & the PublicMedia Association, ActiveWatch.ro, January 20, 2012.

or information; to not create panic, by means of exaggerated speeches; to mention the source of their information; to notify any abuses committed by the law enforcement, as well as any destruction of public or private property; to clearly distinguish the information from their personal opinions; to not make any accusations without offering solid evidence and without giving the accused an opportunity to express his/her point of view; to use moderately, and only after checking it, any information coming from the law enforcement agents or the services field.

#### **Conclusions:**

- **The main aggressors of journalists included public figures, politicians, public officers and representatives of the law enforcement forces.**
- **The lawsuits against the aggressors advance slowly and involve a lot of red tape, which makes many of the assaulted journalists lose their faith in the authorities and the motivation to pursue a case to the very end in the court of justice. However, there have also been cases when the aggressors were sanctioned.**
- **During the street protests, the law enforcement agents acted without discernment and failed to make the distinction between the journalists and the protesters.**

#### **Recommendations for authorities and politicians:**

- **Respect the journalists' mission to gather and disseminate information. The aggressions, the threats and the insults directed at the press are unacceptable, especially when they come from authorities and public figures.**
- **The representatives of law enforcement must take notice when a journalist (or any other citizen) is assaulted, and to take the necessary actions.**
- **Publicly condemn any aggressions against the journalists, inform with respect to sanctions and the completion of the cases, disseminate case studies in the Police Academy and any similar education institutions, at the employment of the community policemen and on the notice boards of the police stations.**
- **For the Gendarmerie and the Police: Instruct the security teams to respect and to protect the journalists and those who document the reality in the field.**
- **Law 544/ 2001 is an obligation, not a privilege.**
- **Harshly sanction, at every hierarchical level, any failure to comply with Law 544/2001, in order to create examples of proper practices; the media has a mission of public information and is doing the authorities' representatives a favor by publicizing press conferences.**

#### **Recommendations for the journalists:**

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

- **Personal ethics and the ethics of the journalists in your editorial office determine reactions from the public. The lack of ethics, displayed repeatedly, may generate violent reactions from the public, at the contact with the journalists.**

## **Access to information of public interest**

### **Attempt to limit the scope of information of public interest**

PDL deputy Mihail Boldea, a trained attorney-at-law, filed in February a draft amendment of Law 544/2001. Boldea would have wanted the information in the criminal files that were either in the prosecution stage or already pending with the courts, to be taken out of the category of information of public interest until the completion of the trial and the passing of a final ruling.

„Due [sic! – editor's note] to the rather ambiguous provisions of Law 544/2001, one may request and obtain data from the criminal files pending with the court or in the prosecution stage, which information may then be used in order to exert a public pressure on the courts. Furthermore, the disclosure of confidential information from a criminal file pending with the court, one injures and deteriorates the image of a person before the competent court have a chance to make an impartial decision”<sup>245</sup>, the deputy then declared, in order to justify his legislative initiative.

In October 2010, one published the stenographs of several telephone conversations between Sorin Ovidiu Vîntu and certain journalists from the Realitatea-Cațavencu group, disclosing the editorial pressures exerted by the owner. The stenographs were part of the case file in which SOV was being investigated for favoring lawbreaker Nicolae Popa. The dramatic situation of the relationships between the owners, editors and journalists, which the publication of these stenographs revealed, flagged the fact that the Romanian media institutions required a resetting of the relationships between these three entities<sup>246</sup>. But, although said stenographs showed the uncensored face of Romanian press (a subject of public interest), the manner in which they were eventually published is debatable, since some information made reference to the private life of persons who had no connection to that specific test case<sup>247</sup>. In this case, however, the Public Prosecutor's Office should (also) have made sure that such persons' right to private life and their right to their own image were protected<sup>248</sup>.

The situation previously revisited proves, in its turn, that the exceptions imposed by Law 544/2001 in its current form are sufficient, provided that they are complied with. According to the first paragraph of article 12 of the law on free access to information of public interest, „The following information is exempt from being freely accessible by the citizens [...]: a) information pertaining to the fields of national defense, public order and safety, provided that it is part of the classified information category, under the law; b) information regarding the authorities' debates, as well as that regarding Romania's economic and political interests, provided that it is part of

<sup>245</sup> „PDL member Boldea wants to put the journalists publicizing data from the criminal case files in prison”, EvZ.ro, Clarice Dinu, February 19, 2011.

<sup>246</sup> „The stenographs in the << Vîntu case file>>”, ActiveWatch, APD, CRJ, TI România, ActiveWatch.ro, October 21, 2010.

<sup>247</sup> „The point of view of the Center for Independent Journalism on the publication of the stenographs in the Sorin Ovidiu Vîntu case file”, Center for Independent Journalism, CJI.ro, October 19, 2010.

<sup>248</sup> For any details regarding this case, please review the FreeEx Report 2010 – Freedom of the Press in Romania, ActiveWatch – Media

the classified information category, under the law; c) information regarding the commercial or financial activities, if their publicity infringes upon the principle of fair competition, under the law; d) information on personal data, under the law; e) information regarding the procedure during a criminal or disciplinary investigation, if the result of the investigation is thus jeopardized, confidential sources are disclosed or the life, the physical well-being or the health of a person are threatened pursuant to the completed or the ongoing investigation; f) information regarding the judicial procedures, if their publicity infringes upon ensuring an equitable trial or upon the legitimate interest of any of the parties involved in the trial; g) information the publication of which prejudices the measures of protection of the young”<sup>249</sup>.

In March 2012, deputy Mihail Boldea, the initiator of the legislative project that wanted to block the access of the press to the criminal files pending with the court, was arrested for fraud and the establishment of an organized crime group. Find details about this case in the "Legislation" chapter of this report.

### **Restricted access into the Parliament, when accepting responsibility on the Labor Code**

Roberta Anastase, chairman of the Chamber of Deputies, announced in March, one day before the Parliament accepted responsibility on the Labor Code, that only journalists may attend the next day's joint meeting of the Chamber of Deputies and the Senate. The blocking of the citizens' access to the meeting of the two Chambers was an unprecedented situation in post-December history and breached the first paragraph of Article 68 of the Romanian Constitution, according to which „The meetings of the two Chambers are public”.

Contacted by FreeEx, The Public Relations and Protocol Department of the Chamber of Deputies claimed that it was an exception and that the citizens' access shall be permitted again, after the „balconies were secured”. He was referring to the recent case of journalist Adrian Sobaru, who threw himself over the balcony during the meeting regarding the debate of an impeachment motion. At the observation that it was precisely a journalist who "took advantage" of the balconies' lack of safety the last time, which was why it was still unclear why other citizens apart from the journalists were prohibited access into the balconies, the representative of the Department promptly distanced himself from the issue: „It is not my decision”<sup>250</sup>.

Another reason invoked by the parliamentarians for limiting access to the Parliament's balcony was that there were already too many citizens interested in the event and they had no more selection criteria.

In the course of the same month, the Permanent Office of the Chamber of Deputies amended the Regulation for the accrediting of journalists and restricted access on the hallway in front of the plenum hall, where the parliamentarians are frequently present. The decision was made as a result of the deputies' dissatisfactions, who were complaining that they were tripping on the television's cables and the journalists kept irritating them with questions. Thus, the journalists were asked to assist at the meetings from a room especially arranged for the press, on level P. The mini-television stations who were broadcasting directly from the Parliament were also going

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Monitoring Agency, published in May 2011.

<sup>249</sup> „Law no. 544 of October 12, 2001 regarding free access to information of public interest”, published in Official Gazette no. 663 of October 23, 2001, page 5, Presidency.ro.

<sup>250</sup> „Limited offer: tomorrow, only journalists can throw themselves from the Parliament's balcony”, FreeEx, Blog.ActiveWatch.ro, March 7, 2011.

to be moved one floor down. The document also regulated the access of the press in the plenum's balconies, so that circulation between the balconies of the press and those for the public should not be allowed. „One can still take interviews there (in front of the plenum hall), one can still talk to the deputies in that perimeter. The only difference shall be that the mini-television studios shall be moved and that the plasma TV on which the meeting used to be watched shall also be taken to the press room. Essentially, it shall be more comfortable for the journalists”,<sup>251</sup> said Gabriela Enea, Head of the Public Relations Department.

### **Sulfina Barbu excluded women from a debate about women**

At the end of March, PDL deputy Sulfina Barbu, head of the PDL Women's Organization, only invited men at a debate regarding the draft law on the mandatory quota for appointing women as candidates in the parliamentary elections. The deputy's argument: the decision-making power belongs to the male parliamentarians anyway, because "men represent approximately 90% of the Parliament"<sup>252</sup>.

As a sign of protest against this initiative, human rights activist Oana Băluță, of the Center for Curricular Development and Specialized Studies FILIA sent the deputy an ironic open letter: "Thank you for being so attentive to the men's needs and for creating for the deputy gentlemen and the representatives of the various institutions a discussion framework in which they do not feel embarrassed and inhibited by the participation of women and by the discussions initiated by them with respect to their right to be politically represented"<sup>253</sup>, Oana Băluță wrote, among others.

### **Roșia Montană is secret**

In July, the Ministry of National Culture and Patrimony sent a press release that promoted a message of the company interested in the Roșia Montană mining exploitation (RMGC), but omitted information of public interest. According to the press release, RMGC would have allotted USD 70 million for the „works of conservation and improvement of the archaeological and architectonic patrimony in Roșia Montană”. „The plan also includes the establishment of a special committee – including independent experts – that shall monitor and shall be authorized to cease the exploitation at any time, should any important discoveries be made”<sup>254</sup>, the same press release stated.

While a part of the press took over the message in a manner lacking discernment<sup>255</sup>, as well as irresponsible and undocumented<sup>256</sup>, ActiveWatch requested the Ministry of Culture for more information of public interest, referring to: the existence of a potential public-private partnership concluded by the ministry with the Roșia Montană Gold Corporation mining company, the content of the document on which such possible partnership

<sup>251</sup> „Deputies, allergic to journalists”, Marinela Rață, EvZ.ro, March 23, 2011.

<sup>252</sup> „Sulfina Barbu excluded women from a Parliament debate”, Luca Negreanu, RomâniaLiberă.ro, March 31, 2011.

<sup>253</sup> „Letter of thanks addressed to deputy Sulfina Barbu”, Oana Băluță, CentrulFilia.ro, March 30, 2011.

<sup>254</sup> „Request of information to the Ministry of National Culture and Patrimony”, Liana Ganea, Blog.ActiveWatch.ro, July 15, 2011.

<sup>255</sup> Ziua de Cluj said that the Minister of Culture received several congratulations and support letters from NGOs and „academicians” who appreciated the ministry's efforts to finance „the patrimony operations” at Roșia Montană. The NGOs quoted by Ziua de Cluj were suspected of financing their activity with funds offered by RMGC. Details here: „Kelemen Hunor, lauded for his pro-Roșia Montană decisions”, Ziua de Cluj, ZiuadeCJ.Realitatea.net, July 17, 2011.

<sup>256</sup> Realitatea.net wrote that the archaeological discharge from responsibility would represent „the first step in the process of preservation and improvement of the archaeological and architectonic heritage at Roșia Montana”. Details, here: „Dangerous ignorance: The archaeological discharge from responsibility does NOT mean the protection of the patrimony!”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, July 14, 2011.

would have relied, the preventive archaeological research report and the action plan initiated by the ministry in partnership with RMGC for the preservation of the patrimony, as well as the document attesting to the announcement according to which RMGC was going to allot USD 70 million for the patrimony.

### **Mayor Radu Mazăre, fined for his silence**

In November, the Bucharest Court of Appeals dismissed, as ungrounded, the second appeal<sup>257</sup> of Constanța mayor Radu Mazăre, dissatisfied that he had been fined for refusing to communicate to the Romanian Academic Society (SAR) information of public interest regarding the conclusion of certain public procurement contracts.

Thus, in 2009, SAR requested the Constanța City Hall to disclose to the public eight of the institution's public procurement contracts, signed in 2008 and 2009 with various companies. The content of the request for information was as follows: „In view of eliminating any suspicions with respect to the Institutions of the Local Public Administration, as well as in view of a proper mutual acquaintance, in order to have a general survey of the situation with respect to your company, in consideration of the fact that, at a local level, we are not very aware of any actions that have been organized, in view of a proper information of the Constanța municipality's citizens, we hereby kindly request the following data with respect to: the professional activity, the manner of exercise of the same; income sources; the staff, employees and collaborator structure; all donation or other contracts by means of which you obtain incomes; the salaries of the employees and the collaborations, the parties' agreement; the expenses related to any travels, the reimbursements; the protocol expenses; the annual balance sheet and the monthly balance sheets since the establishment up to the present day”<sup>258</sup>.

In the absence of an official answer, SAR sued the Constanța City Hall and won on the basis of Law 544/2001. The ruling forced the mayor to pay the state a fine of 20% of the minimum gross salary per economy for each day during the period June 9, 2010 – February 16, 2011 (June 9, 2010 being the first day of unjustified delay of the enforcement and February 16, 2011 being the date on which it enforced the court decision<sup>259</sup>).

### **CIA secret prison in Romania**

At the beginning of December, Associated Press and the German public television ARD published an investigation which informed that one of the former CIA prisons, where people suspected of terrorism in the September 11, 2001 attempts were taken into custody had its base in Bucharest, at the headquarters of ORNISS (the Office of the National Registry of State Secret Information)<sup>260</sup>. According to the AP, former officials of the U.S. secret services described the area in which the prison was located and identified the building in photographs.

Prior to the publication of the article, the Associated Press correspondent in Romania, Alison Mutler, asked Traian Băsescu, the president of Romania, about the secret CIA prison in Romania, but the official ridiculed the journalist (see details in the Chapter on „Aggressions, threats, insults”). Also, the representatives of ORNISS denied

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<sup>257</sup> „Case file no. 33846/3/2010, registered on February 14, 2011, sanction for the failure to enforce a decision, Administrative and fiscal claims department, second appeal, Romanian Academic Society: respondent, the mayor of the Constanța municipality – Radu Ștefan Mazăre: appellant”, Portal.Just.ro, November 25, 2011.

<sup>258</sup> „România Curată won the lawsuit with the Constanța mayor, Radu Mazăre, fined Lei 33,902 lei for refusing to communicate information of public interest”, Dan Mihai, RomâniaCurată.ro, November 28, 2011.

<sup>259</sup> Ibidem.

the access of some journalists in the alleged prison and communicated with them solely through the telephone of the gendarme booth in the institution's courtyard. „We categorically deny all speculations according to which a CIA prison operated within these premises. Beginning with the last part of year 2002, the building served exclusively as ORNISS headquarters. You are not allowed to photograph the building and we cannot let you enter the building. Not because of the situation created now, by this press article, but because of the institution's special regime”<sup>261</sup>, Simona Cap-Alb, spokesperson for ORNISS, declared telephonically.

### **The official e-mail addresses and telephone numbers of the deputies are inaccessible**

A survey conducted in December by UBB Radio Online (a multimedia project of some journalism students of the Babeş-Bolyai University) disclosed, after testing 60 official e-mail addresses and telephone numbers of 60 deputies, that the officials are unapproachable.

„The UBB Radio reporter tested, for 5 business days, the official e-mail addresses and telephone numbers of 60 deputies. No e-mail reached the parliamentaries' electronic inbox. None of the telephone numbers belonged to the deputy, but to the advisor/former advisor/son and, in the case of PSD deputy Macaleţi Costică, to a person who has no connection to parliamentary activity whatsoever, even though the number is posted on the Chamber of Deputies' website. Out of the 60 calls made by the UBB Radio reporter, 34 were answered. Only 10 advisors offered the deputies' direct telephone numbers”<sup>262</sup>, according to the UBB Radio survey.

### **(Un)restricted access to information of public interest**

Over a decade since the passing of Law 544/2001 on free access to public information, „the practices at the level of the public authorities – either central or local – are far from being transparent with respect to the communication of information, either upon request or *ex officio*”<sup>263</sup>, according to a report launched in April 2012 by the Institute for Public Policies. The research is based upon the total number of cases (876 case files) having as an object Law 544/ 2001, solved by the Romanian Courts of Appeals in 2009 and 2010.

According to the report, one third of the lawsuits filed on a national level on the basis of Law no. 544/2001 end up on the docket of the Bucharest Court of Appeals and a trial has an average duration of 7.4 months. „The duration of the lawsuits in court is very often a discouraging factor and becomes, in itself, a factor that restricts free access to information of public interest, as some of these lawsuits may last even as long as four years until a final decision is made”<sup>264</sup>, the study's authors inform. Only 34% of the lawsuits filed under the law on free access to information of public interest are admitted (in full or in part) in the court of first instance, while 61.5% of these lawsuits are dismissed by the tribunals. „The lack of unity of the relevant judicial practice, as well as the fact that these decisions are not communicated to the interested persons, results in the fact that the number of requests dismissed – on the grounds that, in most cases, the requested information is not of public interest – continues to be

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<sup>260</sup> „AP Exclusive: Inside Romania's secret CIA prison”, Adam Goldman & Matt Apuzzo, Yahoo News, December 8, 2011.

<sup>261</sup> „CIA prison near Chibrit Market?”, Andreea Pocotilă, România liberă, December 9, 2011.

<sup>262</sup> „Survey: Short treatise on being ridiculed in public. How to reach your deputy”, Oana Moisil, Radio.UBBCluj.ro, December 19, 2011.

<sup>263</sup> „(Un)restricted access to information of public interest, 10 years after the law was passed”, The Institute for Public Policies, Adrian Moraru & Elena Iorga & Lavinia Lefterache, page 6, IPP.ro, April 6, 2012.

<sup>264</sup> Ibidem, page 40.



quite high. The probability that an applicant should win a lawsuit against a public authority is quite low, namely 30% and it decreases if the court of first instance's decision is challenged with a second appeal at the Court of Appeals<sup>265</sup>, the IPP study shows.

IPP identified the following „examples of information requested, for which the Courts of Appeals admit the second appeal: the spending of public funds with the auditing companies, the administrative act of establishment of the discipline committee within the Public Local Finances Service and the nomination of the members, information regarding the employment of public officers in public institutions (qualifications, competition for occupying the position), the number of application to regain Romanian citizenship, filed by the citizens of the Republic of Moldova, the number and the year of establishment of consular (in romana e "sectii consultare" dar ma gandesc ca e o greseala?) sections on the territory of the republic of Poland, the Russian Federation, the Syrian Arab Republic, conditions for preparing the technical-economic and financial documentations for auctions, information regarding the public procurement process etc<sup>266</sup>.

#### **Conclusions:**

- **Politicians persist in their attempt to amend Law 544/ 2001 for the purpose of limiting the scope of public information.**
- **10 years after Law 544/ 2001 on free access to information of public interest came into force, the authorities are still a long way away from understanding the spirit of the law and complying with its provisions.**
- **The authorities delay or ignore the obligation to offer information of public interest and sometimes even hinder (bureaucratically) the access to such information.**
- **The information that is relevant from the perspective of public interest is sometimes prevented from publication for political and/or economic reasons.**
- **The authorities and the political class are both responsible for covering up serious cases of infringement of human rights by blocking access to the evidence.**

#### **Recommendations for journalists and editors:**

- **Read and use the Law on access to information of public interest.**
- **Request a registration number for each request for information of public interest.**
- **According to Law 544/2001 on free access to information of public interest, the authorities are obligated to inform you in writing, with respect to any delay in their response, if more than 10 days pass from the registration of your application.**
- **If the authorities fail to answer you within 30 days following the registration of the request for information, resort to the court of law for assistance.**

#### **Recommendations for the authorities:**

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<sup>265</sup> Ibidem, page 40.

<sup>266</sup> Ibidem, page 34.

- **Law 544/2001 on free access to information of public interest is of a mandatory, not an optional nature.**
- **Support the mission of the press to inform and do not obstruct the citizens' access to public information.**
- **The independent press, which publishes relevant and verifiable articles, needs an infrastructure of resources and public information.**
- **Also ensure free online access to information of public interest.**
- **In order to avoid a fine of 20% of the minimum gross salary per economy, for each day of delay in providing the information, comply with the legal term provided for under Law 544/ 2001.**

## **Insult, slander, the right to private life**

### **Dinu Patriciu vs the Romanian Intelligence Service**

Businessman Dinu Patriciu conclusively won, in February, a lawsuit filed in 2007 against the Romanian Intelligence Service (SRI) for illegally wire-tapping his phones<sup>267</sup>. The High Court of Cassation and Justice dismissed all appeals by the SRI, forcing the institution to pay Dinu Patriciu moral damages of Lei 50,000. SRI's attorneys claimed that the wire-tapping was in the interest of national security and invoked the Rompetrol Case file. Nevertheless, Dinu Patriciu's attorneys proved that their client's private life was infringed upon, by means of the wire-tapping of his telephone conversations for several years (2003-2004), without the existence of an express mandate from a judge to that effect<sup>268</sup>.

The criminal investigation of businessman Dinu Patriciu in the Rompetrol Case file began in 2005. After one year, he was sent before the court, together with 11 other persons, for embezzlement, **money laundering**, association to commit crimes, the market's manipulation by transactions or transaction orders, disclosure of privileged information, **money laundering**, initiation or establishment of an organized crime group<sup>269</sup>. On the date when this report was being drawn up, the Rompetrol Case file was still on the Court's docket.

### **Lia Lucia Epure vs Mălin Bot**

In February 2011, journalist Mălin Bot announced that, even though he had information that the Public Prosecutor's Office decided to criminally investigate him in December 2010, he had still not been officially informed with respect to said decision made by Judge Loredana Bratiș, head of the Criminal Department of the Timișoara Court of law. The journalist recounted that the judge ruled upon conducting a criminal investigation with respect to him "for illegally wire-tapping a telephone conversation and violating the confidentiality of correspondence"<sup>270</sup>, after Lia Lucia Epure, former journalist, sued him for publishing a telephone conversation automatically recorded by the telephone in the editorial office, in which she was trying to block the publication of a survey.

In 2010, Mălin Bot had requested the recusation of Judge Loredana Bratiș, as the latter had passed a decision against the journalist in the past, which was subsequently dismissed by the Timiș Tribunal. "For that

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<sup>267</sup> „Dinu Patriciu conclusively won his lawsuit with the SRI”, Cristi Ciupercă, RomâniaLiberă.ro, February 18, 2011.

<sup>268</sup> „Dinu Patriciu won the lawsuit filed against the SRI”, Realitatea.net, February 18, 2011.

<sup>269</sup> „The Rompetrol Case file– Dinu Patriciu”, Anticorupție.HotNews.ro.

<sup>270</sup> „A shocking ruling for the investigative journalists”, Mălin Bot, MălinBot.wordpress.com, February 19, 2011.

reason and because I had written articles about the incompetence of said judge, back when she was a public prosecutor, I requested her recusation, in October 2010, and that is when I stopped receiving anything related to the case file. Despite my request for recusation, Bratiş judged the case file, even though she had personal reasons not to, and I was neither summoned nor announced, so that I could defend myself [...]. On December 8, 2010 the judge decided that the Public Prosecutor's Office must commence a criminal investigation against me, for the misdemeanors claimed by Epure. It is now February 20, 2011 and I still haven't received this very strange ruling, with respect to which I found out in other ways<sup>271</sup>, the journalist wrote on his blog, in February 2011. Journalist Mălin Bot eventually received the decision a primit the decision stating that the criminal charges had been dropped.

### **Ana Birchall vs Iosif Buble**

In March 2011, the court forced journalist Iosif Buble to pay moral damages of EUR 70,000 and court expenses of Lei 5,854 lei, for infringing upon the right to a personal image and private life of Ana Birchall, a PSD politician<sup>272</sup>. According to his motivation in court, the journalist published a pornographic recording on a blog and hinted that the protagonist was Ana Birchall, „which caused a powerful media scandal, which resulted in the compromising of the plaintiff's candidacy for the position of deputy and potential minister of education in the future Government”<sup>273</sup>. The court noticed that a distortion of Ana Birchall's image was provoked as a result of the use, without her permission, of a number of photographs taken during activities pertaining to the private life domain. The Bucharest Tribunal admitted the legal action filed by Ana Birchall in 2008 and found that the plaintiff's rights of a non-patrimonial, regarding image, dignity and private life, had been infringed upon. The defendant was ordered to publish the ruling at his own expense, in three widespread publications, and to remove the articles, comments and movies that he had posted, which were of a nature to infringe upon the honor, dignity and image of the plaintiff. The court also ordered the journalist to remove from all website, at his own cost, the recording that infringes upon Ana Birchall's non-patrimonial rights. The Bucharest Tribunal considered that „the defendant sought to permanently compromise the plaintiff's political image”, „as the defendant was the one who induced in the public conscience the idea that the woman featured in the film posted on the internet was the plaintiff”.

The journalist filed a second appeal and the Bucharest Court of Appeals decided, in April 2012, that Iosif Buble should pay moral damages in the amount of EUR 20,000 and preserved the provisions of the ruling that found him guilty of infringing upon the right to personal image and to private life<sup>274</sup>. The court dismissed the count regarding the journalist's obligation to remove from all websites the published recording, at his own cost<sup>275</sup>.

### **Businessman Răzvan Petrovici wanted to shut down the blog of journalist Dan Badea**

In March, the Romanian Federation of Journalists (FRJ) MediaSind protested against the behaviour of businessman Răzvan Petrovici, who demanded, in court, the shutdown of journalist Dan Badea's blog. Răzvan Petrovici sued Dan Badea after the journalist published on said blog, in April 2010, an article called "Why do the

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<sup>271</sup> Ibidem.

<sup>272</sup> „Why journalist Iosif Buble was ordered to pay EUR 70,000 as damages for infringing upon the right to a personal image and private life on the Internet”, Attila Biro, HotNews.ro, June 2, 2011.

<sup>273</sup> Case file no. 10437/ 2010, civil judgment no. 524, Bucharest Tribunal, 3<sup>rd</sup> Civil Section, March 28, 2011.

<sup>274</sup> „Journalist Iosif Buble, ordered by the Bucharest Court of Appeals to pay EUR 20,000 as compensation for infringing upon the right to personal image and private life in the lawsuit filed by Ana Birchall”, Attila Biro, HotNews.ro, April 3, 2012.

<sup>275</sup> Case file no. 10437/ 2010, registered on June 24, 2011, appeal, Iosif Buble: appellant, Ana Birchall: appellee, Postal.Just.ro.

administrators of Răzvan Petrovici die, one after the other?"<sup>276</sup>. The materials discussed the conditions in which four collaborators of the businessman died, within a short interval. „Since I am an investigative journalist, with a seniority of 21 years, and I haven't, until today, encountered a similar case, in which four administrators of a company coordinated by the same person died in suspicious circumstances, I considered it my duty to present the anomaly that I discovered. Especially since in at least two of the deaths [...], the relatives suspect foul play”, Dan Badea wrote, on his blog.

Businessman Răzvan Petrovici sued the journalist and filed an application for the issuance of an injunction to urgently suspend Dan Badea's blog until the litigation was solved, and demanded „that the defendant should be ordered to publish an apology for posting false, libellous information regarding the plaintiff, subject to the payment of compensatory damages in the amount of Lei 2,000 for each day of delay, beginning from the date when the resolution to be passed in the case file is deemed irrevocable; ordering the defendant to pay damages”. The lawsuit is still on the court's docket.

### **Criminal charges against journalist Alex Nedea are dropped**

In February, the Public Prosecutor's Office affiliated with the Bucharest 1<sup>st</sup> District Court of Law issued a resolution to drop the criminal charges against journalist Alex Nedea, of the Adevărul daily. In 2010, a criminal complaint was filed against the journalist for insult and libel, by plaintiff Dan Florin Berendel, a citizen who was mentioned in an article by Alex Nedea as being a political party sponsor. "This is how the story goes. My first written text, when I moved from Realitatea to Adevărul, was about some householders who had sponsored PDL and PSD in the election campaign, to make sure that whoever won, they supported the right party. One of them filed a criminal complaint against me, for libel and insult, 90 days after I published the article"<sup>277</sup>, Alex Nedea recounted on his blog. In the meantime, however, the insult and the libel were taken out of the Penal Code, which is why the charges against the journalist were dropped, according to the resolution.

### **Traian Băsescu vs Mugurel Surupăceanu**

In May 2011, Traian Băsescu, chief of state, lost the libel lawsuit filed in March 2010 against some statements of PSD deputy Mugurel Surupăceanu, according to which the Presidency had encouraged the consumption of soft drugs. The President had demanded symbolic moral damages of 1 Leu and the publication of the court's decision in two daily publications, provided that such decision was to be in favor of his request. "I asked for symbolic compensation because I am firstly interested in the prestige of my institution, and only secondly in the money"<sup>278</sup>, Traian Băsescu said.

### **Ion Cristoiu vs Vadim Tudor**

In July, journalist Ion Cristoiu won the libel lawsuit filed against PRM leader Corneliu Vadim Tudor in November 2008. The court ordered the politician to pay the journalist moral damages of Lei 5,000 and court

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<sup>276</sup> „FRJ MediaSind protests against the intention of businessman Răzvan Petrovici to shut down the blog of journalist Dan Badea”, FRJ MediaSind, MediaSind.ro, March 4, 2011.

<sup>277</sup> „I'm the last penal journalist”, Alex Nedea, CuPresadePerete.wordpress.com, April 13, 2011.

expenses of Lei 4,502, for claiming, without providing reliable evidence, that Ion Cristoiu collaborated with the Secret Policar. "I filed this lawsuit not only against Corneliu Vadim Tudor, but in order to end any rumours, whispers and gossip with respect to the accusations that I was a Secret Police informer. That was one of the ways in which I could establish the truth. This was clarified by means of a CNSAS document, upon the request of the Court of Law, not mine. It was proved that CNSAS does not have any investigation or informer file in my name"<sup>279</sup>, Ion Cristoiu declared. But, as the PRM leader continued with his libellous accusations in this respect, the journalist sued him again and won another lawsuit, in December. This time, the 1<sup>st</sup> District Court of Law ordered Vadim Tudor to pay damages of Lei 30,000 de lei<sup>280</sup>.

### **Two years in prison for Victor Ciutacu's hacker**

Bogdan Stancea (23 years of age), the hacker who cracked the internet accounts (blog, Facebook, Gmail, Yahoo) of television man Victor Ciutacu in 2010, was sentenced, in September 2011, to two years in prison, with suspension under supervision and 5 more years – probation term. „I don't know if justice has been served and I'm not happy that a young man has destroyed, either because of his rebellious nature or at someone's order, his more than immediate future. Practically speaking, this man shall be under continuous supervision from the state authorities for seven years and I doubt that, during that period, he will be able to find a job. I filed that complaint both out of a natural desire to recover my Internet accounts, and to fire a warning shot. Even though the Internet is considered a no man's land, the people's private correspondence and private life should remain private"<sup>281</sup>, Victor Ciutacu said.

### **Victor Ciutacu vs Radu Moraru**

In October, Victor Ciutacu won the lawsuit filed in 2009 against TV producer Radu Moraru and the B1 TV television channel, who were ordered by the 1<sup>st</sup> District Court of Law to pay moral damages of Lei 10,000. „During the shows on September 7 (2009, editor's note), September 8 (2009, editor's note), September 10 (2009, editor's note), September 14 (2009, editor's note) and September 15 (2009, editor's note), the B1 TV channel and the defendant Radu Moraru, in his capacity as producer of the show, launched what clearly and indubitably was a media campaign directed against me, by presenting false aspects regarding my professional activity, meant to make a dent in my dignity, to discredit me and to damage my public image"<sup>282</sup>, Victor Ciutacu claimed in the summons against Radu Moraru and the company that owned B1 TV channel (News Television SRL). Radu Moraru has accused him of "pilfering" and of being a "secret police officer". Radu Moraru said he would file a second appeală spus că va face recurs.

### **Radu Mazăre vs Ziua de Constanța**

In October, Mayor Radu Mazăre won a libel lawsuit against the Ziua de Constanța publication, which had published a critical article against the aedile. The Brașov Court of Appeals decided that the publication (jointly with

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<sup>278</sup> „Băescu, examined in the lawsuit with Surupăceanu with respect to the soft drug consumption”, Mediafax.ro, May 18, 2011.

<sup>279</sup> „Vadim Tudor, beat in court by Ion Cristoiu. A lawsuit with Nistorescu follows. VIDEO”, Ionuț Fantaziu, EvZ.ro, July 15, 2011.

<sup>280</sup> „Ion Cristoiu won a new lawsuit against Vadim: damages of 300 million”, B.T.I., InPolitics.ro, December 15, 2011.

<sup>281</sup> „The hacker who cracked Ciutacu's internet accounts, two years in prison”, Irina Ursu, Ziare.com, September 6, 2011.

<sup>282</sup> „Victor Ciutacu won his lawsuit with Radu Moraru and B1TV”, Jurnalul.ro, October 20, 2011.

the article's author, journalist Cecilia Zărea) should pay the plaintiff Radu Mazăre moral damages in the amount of Lei 10,000 and ordered the daily to pay court expenses in the amount of Lei 7,000.

The article challenged by the Constanța Mayor, entitled "The illegalities of Dorel Vlad, supported by Mazăre"<sup>283</sup>, claimed that Dorel Vlad, former general manager of SC Mamaia SA (the entity responsible for the "acceleration and completion of the process of privatization of the tourism companies"<sup>284</sup>), had illicitly appropriated several lands, with the support of several influential persons, including Radu Mazăre.

"The editorial office of our daily publication is announcing that the lawsuit «Mazăre vs. ZIUA de Constanța» shall continue and we shall request the aid of the European Court for Human Rights, for compliance with the sanctioned right to free speech, but also with the citizens' right to be informed, as he did a couple of years ago, but seemed to forget really quickly"<sup>285</sup>, wrote Emilian Andrei, editor-in-chief of ZIUA de Constanța. Contacted by FreeEx, journalist Cecilia Zărea said that the procedures for a CEDO lawsuit have been commenced. During a press conference, the Mayor donated the money obtained from the lawsuit to several poor people (an elderly lady with a schizophrenic child, a child with spastic tetraparesis and a blind lady). "Here's to as many slanders as possible, because there are many wretched people"<sup>286</sup>, Radu Mazăre said. The aedile had initially requested moral damages of Lei 200,000 in this lawsuit, but the judges set the amount at 5% of his financial claims.

### **Dumitru Sechelariu vs blogger Florin Popescu**

In November, Bacău journalist and blogger Florin Popescu (nicknamed "Aghiuță") lost the appeal in the lawsuit filed by businessman Dumitru Sechelariu, former Mayor of Bacău, on the grounds that the blogger had damaged his image, honor and dignity.

Dumitru Sechelariu sued Florin Popescu after the latter published, during 2009-2010, several articles and polls on his blog, with respect to Sechelariu. The court decided that the articles were in compliance with the limits of the freedom of speech, but considered that, solely in the case of one of the polls on the blog, "the limits of the freedom of speech have been crossed"<sup>287</sup>. The question of said poll was: "How much is the honor of the Sechelariu family worth these days?". The court determined that the response options of the poll ("not even sixpenny", "two billion", "there's no way they're going to recover from this", "sixpenny") caused Dumitru Sechelariu "anxiety, concern and heartache", a fact which was confirmed by two employees of the former Mayor, attending the lawsuit as witnesses<sup>288</sup>. Despite the fact that he claimed that the inculpative poll was a pamphlet, meant to ironize the circumstance in which three members of the Sechelariu family simultaneously sued two journalists, demanding damages in the amount of Lei 200,000, blogger Florin Popescu was ordered to pay moral damages in the amount of 50,000. After the court dismissed his appeal, the blogger fined a second appeal.

### **CEDO lawsuits**

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<sup>283</sup> „Dorel Vlad's illegalities, supported by Mazăre”, Cecilia Zărea, ZIUAConstanța.ro, January 15, 2008.

<sup>284</sup> MDTR.ro

<sup>285</sup> „What has Mazăre lost? The lawsuit with ZIUA de Constanța continues”, Emilian Andrei, ZIUAConstanța.ro, October 18, 2011.

<sup>286</sup> „Through Mazăre, ZIUA de Constanța helped three social cases”, Georgiana Ionescu, JurnaldeConstanțaOnline.ro, October 18, 2011.

<sup>287</sup> „Good news for my haters”, Florin Popescu, Aghiuță.com, July 31, 2011.

The Romanian state continues to lose, at the European Court for Human Rights (CEDO), lawsuits regarding the journalists' freedom of speech.

**Cornelia Popa vs România.** In 2011, a CEDO ruling of March 29 sentenced Romania to pay EUR 11,000 to journalist Cornelia Popa in Constanța, because the Romanian courts unjustifiably ordered her, in 2002, to pay a penal fine to a judge about whom she had written a critical article<sup>289</sup>. The journalist was not permitted to defend herself and to prove the accuracy of her claims, as she was sentenced precisely by the Constanța Tribunal, where the plaintiff was working. Cornelia Popa was sentenced on the grounds that her article was "biased, libellous, of a nature likely to affect the image of the judicial system in the public opinion's eyes"<sup>290</sup>. Nine years later, CEDO decided that the Constanța journalist's freedom of speech was infringed upon, considering that she had acted in the public interest, referring to the judge's professional life and that the phrases used by the journalist "cannot be considered by the Court as intentionally libellous allegations, but as an expression of journalistic freedom, which also allows for a possible resorting to a certain degree of exaggeration, and even challenge"<sup>291</sup>. Cornelia Popa was supported in her actions before the European Court by APADOR-CH, through the attorneys with whom it collaborates. The case was notified to APADOR-CH by the FreeEx team.

**Maria Sipoș vs România.** On May 3, 2011, on the very World Day for Press Freedom, CEDO sentenced Romania for breaching article 8 regarding the right to private life, of the European Human Rights Convention and ordered the state to pay moral damages in the amount of EUR 3,000 to the former TVR journalist (currently retired) Maria Sipoș<sup>292</sup>.

It all began in 2002, when Maria Sipoș, producer and anchor of the "Event" show, broadcasted on the TVR 1 channel, was replaced by the channel's management, with no explanation. As she did not receive any response to the appeal that she filed, Maria Sipoș issued statements to the press and hinted at a restoration of censorship within the public television. In January 2003, the press Office of SRTv published a press release, taken over by six national newspapers, in which it presented the facts, as well as a motivation of the decision made against Maria Sipoș, relying especially on audience data. It was followed by several comments on that situation, *Urmasii mai multe comentarii asupra acelei situatii*, which in fact question the journalist's judgment, presenting her as a victim of political manipulation, referring to family matters and relations considered conflictual, which she allegedly had with her colleagues. In March 2003, Maria Sipoș filed, in the court of first instance at the 1<sup>st</sup> District Court of Law, a criminal complaint against the manager of the television channel and the then coordinator of the SRTv press office (Valentin Nicolau and Irina Corbu, respectively), whom she accused of insult and denigration and from whom she requested moral damages. In June 2003, the two accused were acquitted, on the grounds that they had not acted with the intention of insulting or denigrating Maria Sipoș, but for the purpose of expressing an official position of SRTv with respect to the censorship accusations expressed by the journalist. Furthermore, the request regarding the payment of the indemnity was dismissed. Sipoș challenged the decision with a second appeal and in December

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<sup>288</sup> „Blogger ordered to pay moral damages of Lei 5,000 for a poll”, Răzvan Bibire, *Contrasens.com*, July 29, 2011.

<sup>289</sup> „CEDO: <<Journalistic freedom allows for a certain level of exaggeration, even challenge >>! Towards the magistrates as well!”, L. J., *Luju.ro*, March 29, 2011.

<sup>290</sup> *Ibidem*.

<sup>291</sup> *Ibidem*.

<sup>292</sup> „Another journalist defeats the Romanian state before CEDO”, Mădălina Prundea, *AfaceriPublice.ro*, 2011. This case was documented and

2003, the Bucharest Court of Appeals admitted that said press release contained denigrating expressions about Maria Sipoş. However, in consideration of the defendants' lack of intent to insult or denigrate her and given their good faith, the court decisively dismissed the second appeal filed by Maria Sipoş.

Once the means of appeal in the country ended, Maria Sipoş challenged the Romanian authorities at the CEDO in May 2004, accusing them of failing to comply with their obligation under article 8 of the Convention, to protect her right to a reputation and to private life, with respect to the claims of the SRTv press release. "The Court considers that the opinions that consider Mrs. Sipoş a victim of political manipulations lack any proven factual basis, to the extent that there is no indication that she might have acted under the influence of any partisan interest. With respect to the considerations referring to Mrs. Sipoş's emotional state, the Court notes that they are based upon elements of her private life, the disclosure of which does not seem necessary. As far as the appraisal regarding the judgment of Mrs. Sipoş is concerned, it should not have been considered an indispensable element in SRTv's stand, as it was expressed in the press release, given that it relied on elements of the interested party's private life, known by SRTv's management", the CEDO decision showed.

"Even though [this decision – editor's note] comes after a long period of time (normal in the Court's manner of operation), for me it represents a confirmation of my conviction that justice exists and that – even though in Romania, justice is perceived in a negative way – we should have faith that we can change this status quo, even if it has to be done by the CEDO decisions. I believe that the decision should be pondered those who abusively use their position and the institution of the press office instead of dialogue, deliberately ignoring any regulations (local and international) regarding human rights. And it should encourage all journalists who do not know how to protect their rights, or who are afraid to do it"<sup>293</sup>, Maria Sipoş declared for ActiveWatch.

### **Journalist prevented from writing any articles about a deputy's wife**

At the beginning of 2012, the ActiveWatch NGO was surprised to find out about decision no. 73/January 19, 2012 of the Maramureş Tribunal, 1<sup>st</sup> Civil section, in case file no. 7860/100/2011, which prevented one journalist from writing any more articles about a deputy's wife<sup>294</sup>. This decision admits the request for an injunction, filed by plaintiff Leşe Eugenia Mihaela (the wife of deputy Doru Leşe) and forces journalist Ioan Romeo Roşianu "to cease any infringement upon the non-patrimonial rights regarding the defendant's image, dignity and private life" on a temporary basis, until the passing of an irrevocable decision in case file 7859/100/2012, registered with the Maramureş Tribunal.

The decision has a vague wording, it is not argued by the judge who handled the case and it forces the journalist to subject himself to self-censorship, on an indefinite period, as it fails to clearly specify the extent of the prohibition imposed upon the journalist. ActiveWatch sent an open letter to the Superior Council of the Magistracy, in which it announced that the sentence was vague, ambiguous, not-argued and disproportionate, in relation

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<sup>293</sup> drawn up for ActiveWatch by journalist Mădălina Prundea.

<sup>294</sup> „Another journalist defeats the Romanian state before CEDO”, Mădălina Prundea, AfaceriPublice.ro, 2011. This case was documented and drawn up for ActiveWatch by journalist Mădălina Prundea.

<sup>294</sup> „A court decision prevents a journalist from writing any articles about a deputy's wife”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, March 27, 2012.



to the actual facts. The organization drew attention to the fact that said decision represented an extremely dangerous precedent for the exercise of the right to free speech and for ensuring the public's right to be informed with respect to matters of public interest.

As shown by the publicistic materials denounced by the legal action filed by Mihaela Leșe, their content targeted aspects of public interest. The articles referred to Mihaela Leșe's professional activity as a doctor (the quality of medical services being a subject of public interest), but also to the plaintiff's capacity as a business woman, and the journalist indicated potential corruption acts, some of them involving the person of deputy Doru Leșe, her husband, which further justifies invoking the public interest. The reputation and the honor of a public figure are not absolute rights and cannot prevail over the public's right to be informed in matters of public interest. However, by means of this injunction, journalist Ioan Romeo Roșianu no longer has the right to recount anything about Mihaela Leșe, not even in the hypothetical case that she committed a crime, such as causing a traffic accident while driving under the influence, or in the event of a criminal action regarding potential corruption acts committed by Mihaela Leșe. Under such circumstances, until the decision was passed on the merits of the case, the journalist should have the opportunity to do his job and inform the public with respect to matters of public interest.

The ActiveWatch organization requested the Superior Council of the Magistracy (CSM) to carefully review the existence of such judicial practices and to recommend the magistrates to take into account the public interest, the provisions of the European Human Rights Convention and the practice of the European Court for Human Rights. The CSM replied that its duties did not cover that. ActiveWatch also requested the Ministry of Justice, the promoter of the new codes, including the new Civil Code – passed by engaging the Government's responsibility –, to take the necessary steps in view of amending article 255, paragraph (3) of the new Civil Code. A clearer and more accurate wording of the content of the temporary prohibition that may be applied to the journalist is necessary, as the current form of the text allows the court to prohibit the journalist any kind of critical reference with respect to a certain person, which overtly contradicts the role of the press.

#### **Conclusions:**

- **Politicians, public figures and various citizens continue to harass journalists and to try to intimidate them, by suing them without any solid grounds, for information published by them.**
- **Romanian courts have started to comply with the CEDO case law and to refrain from so easily passing sentences for the journalists and citizens accused of insults, slander or denigration. Nevertheless, law enforcement continues to be non-unitary, which is why some journalists end up requesting the aid of CEDO.**
- **Justice has sanctioned an abuse of the Romanian Intelligence Service, which wire-tapped a citizen's conversations without a mandate.**

#### **Recommendations for journalists:**

- **Familiarize yourselves with the provisions of the new Codes and with the court's decisions with an impact upon freedom of speech.**

- **Publicly expose the abusive decisions made by the courts of justice against journalists and show solidarity to your fellows who fall victim to disproportionate court sanctions.**
- **File complaints with CEDO when you are decisively ordered to pay disproportionate damages or get exaggerated punishments for affecting a person's reputation or for infringing upon a person's right to private life.**
- **Become informed with respect to the CEDO case law and use it as an argument in court, when you are being sued. Access the [www.activewatch.ro](http://www.activewatch.ro) website, where you can find cases from the CEDO case law.**
- **When you are involved in a lawsuit, demand the payment of court expenses.**

#### **Recommendations for authorities, politicians and other citizens:**

- **Comply with the right to freedom of speech.**
- **Public figures should avoid suing journalists for minor side-slips, when they have other means of counteracting the libellous information against them (public speeches, press conferences etc.).**

#### **Workplace conflicts**

##### **A journalist kept his work laptop in exchange for his outstanding salaries**

During January-April 2011, Timișoara journalist Viorel Dogaru worked for the online newspaper Timnews.ro, owned by the owner of DavidPressPrint ST, Ioan Popa, but only received his salary for one month, which determined his to resign. In order to make sure that he receives his money, the journalist temporarily kept a laptop in the editorial office, which made Ioan Popa to file a complaint for theft with the Police<sup>295</sup>.

Contacted by FreeEx, journalist Viorel Dogaru said that the charges filed against him for keeping the work laptop had been dropped and that he still hadn't received his salary rights, which was why he was going to sue his former employer. "I believed we would reach an agreement, but apparently, there's no chance of that happening", Viorel Dogaru also said.

##### **AGERPRES employees receive "the lowest remunerations"**

In 2011, the temporary management of the National Press Agency AGERPRES was accused by the journalists' trade unions of failing to comply with the employees' rights, of the institution's lack of transparency and of unjustified expenditures from public funds. As a result, in July, the Romanian Journalists' Federation (FRJ) MediaSind announced that the employees of the National Press Agency AGERPRES were "the only employees in the media whose incomes had dropped with over 30% and had the lowest salaries in the industry (between EUR 100 and 350/month), as they did not benefit from the rights of the United Media Branch Collective Employment Contract, because they were considered public officers, not media employees<sup>296</sup>".

In September, the Professional Journalists' Trade Union sued the management of ANP AGERPRES for failing to comply with Law 544/ 2001 on free access to information of public interest. SJP had requested answers to

<sup>295</sup> „A Timișoara journalist accuses his former employer of blackmail”, Georgeta Petrovici, EvZ.ro, July 28, 2011.

<sup>296</sup> „FRJ MediaSind's reaction to the press release of the ANP AGERPRES management”, FRJ MediaSind, MediaSind.ro, July 25, 2011.

several questions related to the manner in which the AGERPRES management had used the public funds<sup>297</sup>. Among others, SJP had requested the AGERPRES management to specify, according to Law 544/2001, "the nature of the purpose of certain goods purchased by the institution, which had no connection to the agency's object of activity, such as chainsaws, mole traps, lawnmowers, vaccum cleaner for leaves, trees, shrubs, roses, turf"<sup>298</sup>. During the last month of the year, the Bucharest Tribunal ordered the management of AGERPRES to publicize the information requested by SJP<sup>299</sup>.

The tensions within AGERPRES also continued in 2012. Thus, in February 2012, Professional Journalists' Trade Union (SJP) sent a press release in which it accused the AGERPRES management, and more specifically the temporary general manager Ioan Roșca, of expenditures from public funds "for purposes declared inadmissible". According to the SJP press release, "Ioan Roșca, retained, from the public funds, one of the most expensive law firms in the country, [...] in order to eliminate, in court, the right of the Professional Journalists' Trade Union to protect its members against the management's abuses"<sup>300</sup>. The 1<sup>st</sup> District Court of law declared the challenging of said trade union's representative nature at the level of AGERPRES to be inadmissible<sup>301</sup>.

### **Workplace conflict at the managing level of TVR News**

Rodica Culcer, manager of the Informative and Sport Shows Department (DEIS) reached her retirement age at the end of May 2011, and the new Labor Code provides that, in such cases, the employment contract is rightfully terminated. However, the TVR management decided to extend her contract until June 30, as her contract with TVR ended on that particular date<sup>302</sup>. On June 29, Culcer filed a reemployment application, cumulated with her pension. Her application was approved by the TVR management, and starting on July 1, she was reemployed on an executive position ("TV show producer") fulfilling, by delegation, the duties of head of TVR news, until such position was occupied, pursuant to a competition. Bogdan Hossu, leader of the Cartel Alfa trade union Federation, challenged such decision, which he considered outside the provisions of the new Labor Code. Also, the leaders of the opposition vehemently protested against the decision to keep Mrs. Rodica Culcer at the management of TVR news and requested "the involvement of the Board of Directors of the public television channel, of the Culture Committees in the Parliament and of public opinion, in order to put an end to this immoral situation that has serious consequences on the credibility of public television"<sup>303</sup>, according to a press release signed by Crin Antonescu and Victor Ponta.

The TVR management announced only as late as November 22, the beginning of enlistments in the

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<sup>297</sup> „The management of AGERPRES, sued for the abuses directed against its own employees!”, FRJ MediaSind, MediaSind.ro, September 7, 2011.

<sup>298</sup> „The State Protocol regie refused to <<cover up>> the abuses committed by the management of AGERPRES”, FRJ MediaSind, MediaSind.ro, July 22, 2011.

<sup>299</sup> „Case file no. 60091/3/2011, registered on September 9, 2011, communication of information of public interest (Law no. 544/ 2001), administrative and fiscal claims, on the merits of the case, Professional Journalists' Trade Union: appellee, National Press Agency AGERPRES: appellant”, Portal.Just.ro, February 22, 2012.

<sup>300</sup> „The AGERPRES management spends public funds on causes declared inadmissible”, Professional Journalists' Trade Union, February 20, 2012.

<sup>301</sup> „Case file no. 35963/299/2011, registered on August 25, 2011, other claims challenging the representative nature of the trade union, court expenses, work litigation cases, on the merits of the case, AGERPRES National Press Agency: plaintiff, Professional Journalists' Trade Union: defendant”, Portal.Just.ro, February 26, 2012.

<sup>302</sup> „TVR approves the reemployment of Rodica Culcer, cumulated with the pension”, Jurnalul.ro, June 29, 2011.

<sup>303</sup> „USL demands the involvement of the TVR Board of Directors and of the cultural committees against keeping Culcer at TVR”, Mediafax.ro,

competition for the position of manager of DEIS, temporarily held by Rodica Culcer. However, the competition, scheduled for December 19, was cancelled, because "the appraisal committee could not meet in plenum"<sup>304</sup>. Three candidates had enlisted for that competition – Rodica Culcer, Cezar Ion (a journalist with seniority and experience in TVR, holding the position of Head of the Editorial Production department) and a person outside the institution. Accused of delaying the organizing of the competition for the management of DEIS, PDG of TVR Alexandru Lăzescu declared for Hotnews, on September 22: "It was in the middle of the year; when was I supposed to hold the competition, over the summer? I didn't necessarily find it appropriate. For now, she ensures continuity. The timing would have taken us to August, and we couldn't have organized a competition in August"<sup>305</sup>.

On January 18, one day before the date when the appraisal committee in the respective competition was supposed to meet for the final decision, the TVR Board of Directors sent a report, announcing that it decided "to terminate the delegation of the mandate to Rodica Culcer on the position of temporary head of the Informative and Sports Shows Department"<sup>306</sup>. Rodica Culcer challenged the decision, which she considered to be: "a political pressure which I could not accept. It is not possible for the law to be ignored under political pressure. I have not been appointed by the Board of Directors. Should this precedent be accepted, then the Board of Directors may dismiss whoever they please, and the Board of Directors is politically appointed. According to articles 27 and 28 of Law 41/1994, the Board of Directors has no appointment duties. The chairman – general manager is the decision making body. This is a political interference that Law 41 does not permit, which creates a dangerous precedent"<sup>307</sup>. Rodica Culcer accused the random nature of this decision, referring to Board of Directors members whom she considered to be in situations similar to hers: "With respect to my status as a pensioner, employed under a legal employment contract, I must solely remind you that in the Board of Directors there are at least two SRTv pensioners, who collect both an indemnity and copyrights from their activity in the TVR. If they leave and give up these rights, I, too, will leave"<sup>308</sup>. Ada Meseșan, PDL representative in the TVR Board of Directors, considered that the decision is illegal, as the Board of Directors's duties do not include the hiring or the dismissal of staff, while also accusing that "the PSD representatives in the meeting hysterically supported the illegal execution of Rodica Culcer"<sup>309</sup>. In his turn, Alexandru Lăzescu, PDG of TVR, expressed his reserve with respect to said decision, announcing that he would subject the Board of Directors's vote to a legal analysis, to establish whether or not it was in accordance with Law 41/1994. The PSD representative in the Board of Directors, Anne Jugănar, supported her vote, arguing that "Whoever felt that TVR was going in the wrong direction, that a great disservice was being done to its image, especially because of what was happening in the news and in the debate shows, all of those people voted for the termination of Mrs. Culcer's contracts"<sup>310</sup>.

On January 31, the Board of Directors voted again in favor of Mrs. Culcer's dismissal, even though the legal experts consulted by the TVR management claimed a lack of legal coverage for such decision. PDG Al. Lăzescu

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December 8, 2011.

<sup>304</sup> „A new postponement in the competition for the management of TVR News”, V.O., HotNews.ro, December 19, 2011.

<sup>305</sup> „Rodica Culcer, replaced within a month, from the management of TVR News”, Gabriela Antoniu, Jurnalul.ro, November 18, 2011.

<sup>306</sup> „Sources: Rodica Culcer's mandate for the management of TVR News was terminated”, Costin Ionescu, HotNews.ro, January 18, 2012.

<sup>307</sup> Ibidem.

<sup>308</sup> „Rodica Culcer: The TVR Board of Directors has no duty that related to me”, Mediafax.ro, 18 ianuarie 2012.

<sup>309</sup> „ The TVR Board of Directors has voted to terminate the mandate of Rodica Culcer. Some members say that the decision is illegal”, Mediafax.ro, January 18, 2012.

decided to enforce the decision of the Board of Directors, but expressed his disagreement with respect to it: "I distance myself from this resolution which, as you can see, the law obligates me to enforce. This is a case of legal pressure, and not of «yielding to political pressures». I believe this is a dangerous practice for a board of directors, irrespective of its political affiliation, to force, in this manner, the replacement of persons belonging to the public television's editorial management structure. (...) I regret what happened, especially since the matter of the temporary nature of the DEIS manager, created by the retirement of Mrs. Rodica Culcer in June 2010, would have been settled over the following weeks anyway, by means of a natural, legitimate, legally accurate solution: the organizing of a competition for occupying the position. In the Board of Directors' meeting of January 31, 2012, I actually presented to the Board's members my proposal for the organization of the competition for occupying the position. Nevertheless, the TVR Board of Directors decided to vote, for the second time – and despite the legal opinions which had been presented to them – upon terminating Mrs. Rodica Culcer's contract as temporary head of the Informative and Sports Shows Department (DEIS)"<sup>311</sup>. On February 2, Culcer announced on her blog that she was resigning from the TVR, as a result of the decision of Al. Lăzescu to enforce the decision of the Board of Directors, which she considered "an yielding to the political pressures of the USL, exerted directly by the political leaders, by their representatives in the Board of Directors, by all of the media organizations owned by Dan Voiculescu, by the <<trade unions>> affiliated to Mr. Voiculescu and by the various persons with criminal case files and revolutionary claims"<sup>312</sup>.

The TVR management then announced the organization of a new competition for occupying the position, during February 21 – March 18, 2012, for which the candidacies could be submitted until February 17. The term was subsequently extended to February 28. Most of the media sources mentioned the names of five candidates enlisted for the competition: Claudiu Lucaci, Anca Lăzărescu, Monica Ghiurco, Cezar Ion and Horia Grușcă. This competition was eventually cancelled as well, the TVR management invoking the risk that the competition's organization be challenged, as only two of the candidates enlisted within the initial term met the necessary requirements.

### **The Territorial Labor Inspectorate forced Cronica Română to pay its employees**

In August, as a result of a petition filed by the Professional Journalists' Trade Union, the Territorial Labor Inspectorate ITM Iași conducted a control at the company that printed Cronica Română (S.C. UBEMAR S.A.). On that occasion, ITM Iași found "that the company had failed to pay salary rights related to the period November 2010 – June 2011, as follows: at the Iași headquarters, beginning from February 2011; at the Bucharest work point, beginning from November 2010; at the Ploiești work point, beginning from February 2011"<sup>313</sup>. As a result, ITM Iași forced the employer to present proof of the full payment of the outstanding salary rights and to fill out the internal regulation according to the labor legislation.

### **Disputes, tensions and distraint on goods at Adevărul**

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<sup>310</sup> „TVR cancels the competition launched for occupying the head of News position”, Mediafax.ro, January 19, 2012.

<sup>311</sup> TVR press release, February 2, 2012.

<sup>312</sup> „Good-bye, Stalin!”, Rodica Culcer, RodicaCulcer.ro, February 2, 2012.

<sup>313</sup> „Cronica Română, summoned by Labor Inspection to pay its employees!”, FRJ MediaSind, MediaSind.ro, August 16, 2011.

In the context of the economic crisis, the Adevărul newspaper faced, in 2011, a number of financial difficulties, which resulted in debts, salary payment delays, cutbacks, pressures and abuses in its relationship with its employers. In August, the journalists were announced on pay day that they were to be paid in installments and were to receive, on the actual pay day, only Lei 1,500 which, in the case of some of them, meant only one half of the salary<sup>314</sup>.

The situation was even more difficult in the other cities, where many regional editorial offices were closed. Several journalists accused that their employment rights were not complied with and that they were pressured into signing contracts that were disadvantageous for them, under which contracts they accepted the decrease of their salaries and giving up certain rights<sup>315</sup>. The Galați Tribunal decided, in September, to "set up a distraint on the property of debtor SC Adevărul Digital Media SRL, which property was being managed by the Editorial Department ADS Galați"<sup>316</sup>. The distraint on the goods of the Adevărul Galați editorial office was set up as a result of the fact that the newspaper's employees sued Adevărul Digital Media and requested the payment of Lei 7,000, representing the unpaid salaries for three weeks, as well as the indexing, increase and reupdating of these salaries with the inflation index. FRJ MediaSind had previously announced several breaches of the labor legislation, suffered by the employees of the Adevărul newspaper, Brăila-Galați regional branch: delays in the payment of salaries, the imposing of prudential professional norms, failure to comply with the job descriptions, failure to comply with the media Collective Employment Contract's clauses, discrimination by means of preventing certain articles from being published, as well as various pressures and threats with the termination of the individual employment contract<sup>317</sup>.

At the same time, the publication also had disputes with former employees. In August, journalist Cătălin Cocoș, former Adevărul employee, won the lawsuit filed against the publication in 2009, after his position was restructured as a result of the fact that he refused to write an article "on commission". The court ordered SC Adevărul SA to pay the journalist the equivalent of the loyalty increment, the seniority increment and the overtime made, and to pay the court expenses<sup>318</sup>. "My problems began on May 22, 2009, when I had a discussion with Grigore Cartianu, Adevărul editor-in-chief. He accused me of not writing a libellous article about Gazeta Sporturilor, in which to condemn the fact that the aforementioned newspaper did not grant a EUR 1 million prize, pursuant to a campaign that ended on that very date. The manner in which Cartianu wanted me to approach the matter was incorrect, which he himself admitted and <<explained>> to me why the article had to be published: <<Because we (by means of the Click! newspaper) granted an EUR 1 million prize and we must emphasize the fact that we kept our word and the Intact corporation (owning Gazeta Sporturilor), did not>>. In fact, according to the regulation of the Gazeta Sporturilor competition, the finalist could have won a million Euros, but this prize was not guaranteed to him/her. I told him that I didn't find his approach fair and deontological and that I did not agree to write in that manner", the journalist wrote on his blog in 2009<sup>319</sup>.

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<sup>314</sup> „Announcement at Adevărul: No one shall receive a salary that exceeds 15 million”, Carmen Maria Andronache, PaginaDeMedia.ro, August 5, 2011.

<sup>315</sup> „Adevărul Holding, under siege by the creditors”, Tiberiu Lovin, ReporterVirtual.ro, November 2, 2011.

<sup>316</sup> „The Adevărul de Galați journalists set up a distraint on the editorial office's goods”, FRJ MediaSind, MediaSind.ro, September 25, 2011.

<sup>317</sup> „FRJ MediaSind requests the ceasing of the abuses at the Adevărul daily”, FRJ MediaSind, MediaSind.ro, September 8, 2011.

<sup>318</sup> „I won the lawsuit with Adevărul!”, Cătălin Cocoș, CătălinCocoș.ro, August 2, 2011.

<sup>319</sup> Details about this case in the 2009 FreeEx Report. „FreeEx Report – Freedom of the Press in Romania”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, May 2010.

### **Protests in the TVR courtyard**

In October, approximately 100 employees of TVR (mostly technicians) protested in the public television's courtyard for a few minutes, two days in a row, against the possibility of decrease of the salaries and of layoffs<sup>320</sup>. The employees wanted to draw attention to the institution's financial problems, announced since the very beginning of the year by the TVR president and general manager, Alexandru Lăzescu.

### **One-day strike at Muntenia TV**

In December, the employees of the Giurgiu television station Muntenia TV organized a one day strike<sup>321</sup>, as a result of the fact that they had not received their salaries for two months. The strike coincided with the replacement of the television's owners. The payment had been postponed, as the new manager, businessman Paul Dumitru, decided that his priority was to pay the outstanding fees to the Treasury, according to him. On the day following the commencement of the strike, the Muntenia TV journalists received their salaries. After said incident, the television station's employees said they no longer had any salary payment delays.

### **Florentin Deac vs Cuvântul Liber**

In the previous FreeEx Report we were writing about the case of journalist Florentin Deac, who was abusively fired in July 2010, after 13 years of employment with the Cuvântul Liber newspaper in Târgu Mureș. The journalist appealed the decision in court and demanded to also be granted certain rights of which he had not benefited. He claimed the non-payment of his salaries in accordance with his training, the fact that he was not given the three salaries that he deserved at his departure, he was not granted the 25% loyalty increment, even though he had been obligated to sign a contract to that effect, the non-payment of his seniority increment<sup>322</sup>. In March 2011, the Court ordered Cuvântul Liber to give journalist Florentin Deac the payment for his higher education, corresponding to a 3-year period plata. The journalist filed a second appeal, in an attempt to obtain the other requested rights as well. He also notified the ITM with respect to the absence of a mandatory trade union, the non-payment of his seniority, loyalty and higher education increments by his former employers, but the ITM answered that those matters did not fall under the institution's jurisdiction, but must be solved in court<sup>323</sup>. In March 2012, the former employers transferred EUR 4,000 out of the owed amount, into his bank account. "The amount was not the one calculated by me, that I would win pursuant to the lawsuit and, as I had already commenced the enforcement procedure, I shall go with it until I found the truth. Over two months, my opponents have not been able to show me how they calculated the amount that they consider they owe me", journalist Florentin Deac declared pentru FreeEx.

### **Distraint on the „România liberă”, „Domus” and „Casa Mea” trademarks**

In February 2012, three journalists who had been abusively laid off set up a distraint upon the titles

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<sup>320</sup> „Protests at TVR: Approximately one hundred employees gathered in the courtyard of SRTv”, Mediafax.ro, October 12, 2011.

<sup>321</sup> Case documented by ActiveWatch at the headquarters of Muntenia TV, in Giurgiu.

<sup>322</sup> „The story of journalist Florentin Deac, fired after 13 years of employment at <<Cuvântul liber>>”, FreeEx, Blog.ActiveWatch.ro, January 31, 2011.

<sup>323</sup> „How the ITM works in Târgu-Mureș and how the labor Inspectorate works in Bucharest, or how I had to fight for 14 months, so that the state could take the money that it did not want”, Florentin Deac, FlorentinDeac.weblog.ro, December 29, 2011.

"România Liberă", "Domus" and "Casa Mea", owned by Medien Holding SRL, the press group of businessman Dan Adamescu<sup>324</sup>. „[...] we ended up in this situation which is unpleasant for all parties involved, after, as of the first half of year 2011, the managers of the Adamescu family refused, in the presence of the court executor and of the attorneys, to admit and to implement the decisions of the Bucharest Tribunal and the Bucharest Court of Law, which requested the cancellation of the layoff decisions and the reemployment of the undersigned, which measures were doubled by the payment of salaries until the actual reintegration”<sup>325</sup>, said Daniel Popa, one of the three journalists who won the lawsuit in court. The journalist also said that he and his abusively fired fellow journalists intended to sell the acquired claims to a competitor of Dan Adamescu<sup>326</sup>. In March 2012, the 3<sup>rd</sup> District Court of Law dismissed the request of Medien Holding to suspend the establishment of the distraint upon the trademarks won by the journalists<sup>327</sup>.

### Conclusions:

- **Most journalists that appeal their employers' abusive measures in court win the lawsuits.**
- **In the context of the economic crisis, several employers exerted pressures for the replacement of the employment record book with the copyright contract and tried to persuade the journalists to give up their rights.**

### Recommendations for the journalists:

- **Only an employment contract guarantees your rights. Gather information with respect to them and do not accept clauses that contradict the Collective Employment Contract (CCM), because they are illegal.**
- **CCM also includes the conscience clause – an instrument of protection against editorial orders.**
- **Be very cautious when signing a copyright contract, as they have been used in order to blackmail journalists and to elude the provisions of the Labor Code and the United Media Branch Collective Employment Contract.**
- **When you are faced with a workplace dispute, ask the assistance of a specialized attorney, a journalists' trade union or a media NGO.**

### Ethics

The press abounds in materials drawn up in breach of the deontological norms. We shall further present a few cases, as an example.

#### **Television station fined for advertising Dan Diaconescu's party**

During February-March 2011, the OTV television showed several messages of endorsement with respect to the People's Party-Dan Diaconescu, a fact which is prohibited by the audiovisual law, outside the election

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<sup>324</sup> „Three former employees of Dan Adamescu set up a distraint upon the România liberă, Domus and Casa mea trademarks”, Capital.ro, February 22, 2012.

<sup>325</sup> „ Adamescu's former employees established a distraint upon the România liberă, Domus and Casa mea trademarks”, Tiberiu Lovin, ReporterVirtual.ro, February 22, 2012.

<sup>326</sup> Ibidem.

<sup>327</sup> „The court decided: The distraint upon Adamescu's titles remains in force”, Tiberiu Lovin, ReporterVirtual.ro, March 2, 2012.



campaigns. The station was fined by the NCA Lei 50,000 on February 1 and Lei 100,000 on March 29<sup>328</sup>.

Dan Diaconescu, the main shareholder of the company that owns the television station, stated that he was non member of the People's Party. In March and April 2012, the NCA sanctioned OTV three times for political advertising in favor of the People's Party-Dan Diaconescu, each sanction reducing the duration of the license to one half, following which the current license would expire on May 29, 2012. Once the license expires, the television station may apply again, in order to obtain a license for an indefinite period.

### **The Wikileaks file had leaks**

In March 2011, the Romanian Investigative Journalism Center (CRJI) signed a publishing partnership with the Wikileaks organization (WL), in order to analyze and publish articles regarding the telegrams exchanged between various U.S. embassies and the State Department<sup>329</sup>. CRJI came in possession of the entire database with telegrams mentioning Romania.

For security reasons, CRJI decided to collaborate with three members of the association (Adrian Mogoș, Cătălin Prisacariu and Liviu Avram), each preparing the publishing of a series of articles for the publication for which he was working (Jurnalul Național<sup>330</sup>, Kamikaze<sup>331</sup> and Adevărul<sup>332</sup>, respectively).

After an analysis of the telegrams' content, several articles were published independently, in each newspaper, and in the end CRJI published the entire database<sup>333</sup> online. Subsequently, a few visual analyses of the database's content were conducted<sup>334</sup>. CRJI analysed the content of the telegrams almost one month prior to publishing, in order to find out whether the identity of certain sources should be protected, in order to check the authenticity of some information and to put the information into context.

Immediately after a public announcement regarding the CRJI – Wikileaks partnership and the date of publishing of the first press materials, an operation appeared on the Romanian media market, of counteracting a potential long-lasting analysis and putting the diplomatic messages into context<sup>335</sup>. In a hurry, and from sources that had not been publicly announced, HotNews began a massive publishing of materials relied upon parts of the original telegrams, translated into Romanian. The materials did not contain the identification data of the original telegrams (date, identification number, author). HotNews and its re-publishing partners (Realitatea Tv, Gândul and România Liberă) did not have a partnership with the Wikileaks organization and did not publicize the source of the text fragments that they presented, or the original version thereof. The publishing campaign ceased as quickly as it began, and HotNews does not have a section dedicated to the telegrams, nor has it published the original telegrams in the form of a database. From the manner in which the publishing was conducted, it is unclear whether or not the HotNews journalists had access to all original documents.

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<sup>328</sup> „OTV was fined for political advertising for Dan Diaconescu's party”, Mediafax.ro, March 29, 2011.

<sup>329</sup> <https://www.crji.org/comunicate.php>

<sup>330</sup> <http://www.jurnalul.ro/special/wikileaks-romania-3079.html>

<sup>331</sup> <http://www.kamikazeonline.ro/category/dezvaluiri/wikileaks-dezvaluiri/>

<sup>332</sup> [http://www.adevarul.ro/actualitate/wikileaks\\_despre\\_romania/](http://www.adevarul.ro/actualitate/wikileaks_despre_romania/)

<sup>333</sup> <https://crji.org/wikileaks.php>

<sup>334</sup> <http://goo.gl/m9PIa> și <http://goo.gl/K3rwy> (viewing author: Nicolas Kayser-Bril)

<sup>335</sup> „WikiLeaks.ro”, Liviu Avram, Adevărul.ro, March 31, 2011 and „Why I have to distance myself from the rabbit in the high hat”, Cătălin Prisacariu, Prisacariu.Kamikaze.ro, April 1, 2011.

The pursuit of exclusivity no longer took into account professional norms. "Dan Tăpălagă also made a journalistic error: he flooded the market with so much information, totally careless about its quality, that it made everything commonplace. But his comment shows us that, when he was in a hurry to publish, his purposes were not only journalistic, but also highly political"<sup>336</sup>, wrote journalist Liviu Avram, of the CRJI, about the HotNews journalist who was the first to publish fragments of the telegrams. Journalist Cătălin Prisacariu also supported the hypothesis according to which the intentions of those who published said fragments without any discernment relied on totally unethical interests. "Immediately after all relevant pieces of information, according to the schedule of HotNews.ro, were served for 72 hours in rapid succession, the reading schedule also appeared in an explicit form. No more, no less. Therefore, HotNews.ro only took three days, during which only a few dozen passages were published, out of over a thousand cables, to close the subject and draw the moral of the story"<sup>337</sup>, Prisacariu wrote.

### **Directed news**

In April, the Realitatea TV station was accused of directing a news story. In a live transmission, an elderly lady theatrically fainted right when she reached the reporter's microphone. The event took place in Urlați, Prahova County, when dozens of people were protesting in front of the city hall, against the shutting down of the town's hospital<sup>338</sup>. In the broadcasted news, one could see reporter Laura Calciu signalling to someone, calling someone from the crowd. When she reached the microphone, the protester fell to the ground. The material was posted on Youtube, but subsequently taken down at the TV station's request.

Realitatea TV was accused before, of making up a news story about the HIV positive. The organizations of the HIV positive reacted after seeing on TV how in the Singureni commune (Giurgiu), children and young people with such issues infect the locality's population and that the area is a genuine "HIV positive nursery". Officially, in fact, no new case has been registered in the area for over 17 years<sup>339</sup>.

### **One blog invents news, newspapers take them over**

In February, two newspapers promoted on their websites a story published on the website of Cetin Ametcea<sup>340</sup>. According to him, a representative of the NCA notified him, via e-mail, that the Antena 3 television station was fined Lei 20,000 and ordered to suspend the show "The talk of the press", produced by Mircea Badea, for 90 days<sup>341</sup>. Without being checked, the information was taken over by Adevărul, Click!, Realitatea.net, even the National Press Agency AGERPRES. The story was just a farce.

In another case, the press took over a posting from the blog Zoso.ro<sup>342</sup>, where the owner thereof, Vali Petcu, claimed that trade union leader Marius Petcu, investigated for having taken a bribe, was his father. The article (a farce) was taken over by Realitatea.net, Adevărul Online (which, in the meantime, deleted the article), NapocaNews, CorectNews etc.

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<sup>336</sup> „WikiLeaks.ro”, Liviu Avram, Adevărul.ro, March 31, 2011.

<sup>337</sup> „Why I have to distance myself from the rabbit in the high hat”, Cătălin Prisacariu, Prisacariu.Kamikaze.ro, April 1, 2011.

<sup>338</sup> „Realitatea TV – a channel that has people fainting”, Răzvan Prițulescu, Adevărul.ro, April 14, 2011.

<sup>339</sup> „Realitatea TV, accused of having invented a story with HIV infected people”, Marian Păvălașc, Evz.ro, August 11, 2011.

<sup>340</sup> Arhiblog.ro

<sup>341</sup> „How the online press disseminates false information in the Arhi-Mircea Badea case”, Hotnews.ro, February 15, 2011.

<sup>342</sup> „Beyond the news”, Vali Petcu, Zoso.ro, March 25, 2011.

## **High school graduation exam for the "news" channels: the Funeriu and CTP cases**

During the high school graduation exam period, two television channels broadcasted false information with respect to certain public figures.

Between July 8 and 12, the Antena 3 channel broadcasted the story according to which Daniel Funeriu, Minister of Education, did not pass his high school graduation exam on the first try. The information relied upon a document<sup>343</sup> about which Radu Tudor, guest of the show "La ordinea zilei" ("Acute Issues"), claimed that belonged to the Ministry of National Education in France. Radu Tudor claimed that his source was "an Antena 3 viewer in France". On July 9, minister Funeriu denied the claims in a press statement and said that he would sue the Antena 3 channel. Two days later, Radu Tudor wrote on his blog that he had "presented a hypothesis, and not a conclusion. Between the messages of a viewer and a politician's behaviour, I, as a journalist, will always be tempted to give credit to the first alternative"<sup>344</sup>. After the incident, PDL announced that its members shall no longer enter the studios of the Antene. On August 11, the NCA members fined the Antena 3 channel Lei 25,000 for "failing to comply with the principle of objective information with respect to the high school graduation diploma of the minister of Education, Daniel Funeriu".

Another story, published on the news website dcnews.ro, claimed that the son of journalist Cristian Tudor Popescu failed his high school graduation examination. After a short time, Realitatea.net, the website of the Realitatea channel, wrote about the elder son of Cristian Tudor Popescu that he failed his high school graduation examination in 2006. The articles were withdrawn after the journalist wrote two editorials in which he denied the rumours.

## **A female journalist published an article about herself**

A female journalist from the National Press Agency Agerpres quoted herself in an article that she had written, in which she eulogistically presented a tennis match with the mayor of the Capital's 2<sup>nd</sup> district, Neculai Onțanu. In the article, a "journalist who was excited ", but "passionate about the white sport" "answered the challenge" of playing tennis with the 2<sup>nd</sup> district's mayor, who was in "great physical shape". „I sincerely congratulate Mr. Neculai Onțanu, he played nicely"<sup>345</sup>, declared a certain M.T., who had the same initials as journalist Mihaela Tudorache, who signed the article.

## **Antena 3 sings Voiculescu's praises**

When the Antena 3 channel turned six years old, its employees broadcasted an eulogious clip for Dan Voiculescu, the owner of the corporation and founder of the Conservative Party. Voiculescu was presented as a "cool mogul", and scenes of his life were recounted in a dramatic fashion. Television man Mihai Gâdea described the praise as a "gesture of normality"<sup>346</sup>.

## **A journalist instigates to murder**

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<sup>343</sup> „Funeriu sues Antena 3: The TV channel accused of forging the minister's high school graduation examination results”, Evz.ro, July 9, 2011.

<sup>344</sup> „Specifications in the Funeriu case”, Radu-tudor.ro, July 11, 2011.

<sup>345</sup> „Fabricated journalism made by Agerpres: Interview with yourself”, Petrișor Obae, Paginademedia.ro, June 17, 2011.

The "Ștefan cel Mare" magazine, distributed in the CFR trains, together with the free publication "Vocea Ceferistului", published, in October, an article that demanded the shooting of Lazlo Tokes, a Euro-parliamentary of Hungarian ethnicity<sup>347</sup>. The article described Tokes as being a "fucking Hungarian", "a dullard and a traitor" and ended by asking whether "no one in this country would be willing to put a bullet through his head". The National Council for the Prevention of Discrimination imposed a fine of Lei 600 on the editor-in-chief of the "Ștefan cel Mare" newspaper, Florin Nahorniac. Tokes' attorney said that he was waiting for the Public Prosecutor's decision for instigation to commit murder<sup>348</sup>.

### **Lucian Pîrvoiu of TVR 2: the Roma have an Olympian spirit "in stealing wallets"**

On July 27, a Romanian Public Television journalist uttered, during a show, discriminating claims about the Roma ethnicity. Lucian Pîrvoiu discussed at the "News hour" the sports event organized in a poor district by the organization Policy Center for Roma and Minorities and the Embassy of Great Britain. Ambassador Martin Harris said that he recaptured the Olympian spirit in Ferentari. Pursuant to that claims, Pîrvoiu asked Valeriu Nicolae, chairman of Policy Center for Roma and Minorities: "Let's be serious, the Olympian spirit for what? Stealing wallets, shooting up?".

Active Watch submitted a intimation<sup>349</sup> to the TVR Ethics Committee, in which it drew attention to the fact that "the anchor's question describes a discriminating attitude towards the residents of the Ferentari district, promoting stereotypes and labeling the residents of the district and the young people involved in the project as being thieves and drug users. (...)". TVR decided to suspend the anchor of the "News hour" show and qualified his words as "unacceptable".<sup>350</sup> One month later, Pîrvoiu went back to the show<sup>351</sup>.

### **Journalists are instructed to fabricate investigations**

Journalist Ștefan Mako handed in his resignation from the România Liberă (RL) newspaper, after the newspaper's management asked him to write a blackmail-type "investigation" against AVAS (the Authority for the Capitalization of State Assets), an institution which had conducted enforcements at the companies of RL's owner, Dan Adamescu.

On his blog, Ștefan Mako described the reaction of his superiors when he told them that the investigation which he was supposed to conceive this not have a real basis: "more than frightened by the situation, Turturică imperatively ordered Curus (n.n. Curus is the head of the department where Mako worked) to write what we had, because that's what Adamescu wanted. If I didn't write it, he should pass the story along to someone else"<sup>352</sup>. Ultimately, the article was published on July 5, under the title "How AVAS lost a lawsuit with a company close to

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<sup>346</sup> „How the employees of the Antena channels present Dan Voiculescu: Cool Mogul”, Hotnews.ro, June 29, 2011.

<sup>347</sup> „Tokes's murder, requested in an article distributed in trains: Lei 600 fine for <<Is there no one in this country who would be willing to put a bullet through his head?>>”, Ionel Dancu, Adevărul.ro, October 16, 2011.

<sup>348</sup> Tőkés László accusations against << Ștefan cel Mare >>, Georgiana Anghel, Adevărul.ro, July 13, 2011.

<sup>349</sup> „Intimation regarding the racist attitude of TVR anchor Lucian Pîrvoiu”, ActiveWatch.ro, July 28, 2011.

<sup>350</sup> „Lucian Pîrvoiu is no longer the anchor of <<The news hour>> on TVR for making <<unacceptable claims >> during the show”, Mediafax.ro, July 28, 2011.

<sup>351</sup> „Rodica Culcer gives <<a second chance>> to the racist anchor”, Exclusivnews.ro, September 7, 2011.

<sup>352</sup> „Press blackmail, small practical guide”, Activewatch.ro, December 21, 2011.

the head of the institution" and signed with a pseudonym<sup>353</sup>.

Contacted by FreeEx, the representatives of România Liberă refused to comment on Ștefan Mako's accusations. Cristian Curus (head of the online department at that date) declared: "I cannot comment under any circumstance. My collaboration with România Liberă ended, I no longer work there. There are some confidentiality rules that we must comply with when we leave a workplace". In his turn, Dan Turturică (editor-in-chief) said: "I have no comment. Ștefan Mako was not in my suborder, he worked in the online department. This is my only comment".

### **Suicide turned into spectacle**

The suicide of singer Mălina Olinescu generated in the press titles such as "Mălina Olinescu threw herself out of the window and into the only vacant parking space"<sup>354</sup>, "Mălina Olinescu's former lover was searching women on the Internet" (Evenimentul zilei), "Mălina Olinescu has committed suicide. The singer showed that she could also fly to the sky without love"<sup>355</sup> (Adevărul), "Mălina Olinescu got drunk and took drugs before committing suicide" (Cancan)<sup>356</sup>. Moreover, the details in the article either rely upon speculation or are irrelevant and invasive: "The building's supervisor told us that she jumped on the only space where no car was parked, maybe even to avoid destroying anything (...) the cars parked in the pool of blood left after the suicide" (Evenimentul zilei).

The National Council of the Audiovisual (NCA) monitored the manner in which eight television channels showed news and debates about suicide cases, during the period May-June. As a result, it applied several fines<sup>357</sup> of Lei 10,000 for the channels Kanal D, Antena 1 and Pro TV, Lei 5,000 for Prima TV, B1 TV, Antena 3 and Realitatea TV, and it summoned TVR 1. "From what we have seen on TV, it is very clear that all coverages recounted the incident as though it were a very spectacular piece of news in brief, without any intention of making anything else than a spectacle", declared Cristina Trepcea, a member of the NCA.

### **The ARCA of the press owner**

In April 2011, the National Council of the Audiovisual (NCA) asked television and radio channels to publish their Codes of professional conduct on their websites, for editorial transparency. Five months later, the Romanian Association for Audiovisual Communications (ARCA) proposed such a Code, taken over by most of the Romanian channels.

The wording of this document may rather be assimilated to a report on professional ethics. From the very beginning, the authors specify that the document does not set forth the professional regulations already sanctioned as such by the audiovisual Law and the audiovisual regulation code.

An important aspect of the code proposed by ARCA is that it eliminates editorial independence and it

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<sup>353</sup> „How AVAS lost a lawsuit with a company close to the head of the institution, Romanianlibera.ro, July 5, 2011”.

<sup>354</sup> „Mălina Olinescu threw herself out of the window and into the only vacant parking space”, Horia Tabacu, Vlad Teodorescu, Evz.ro, December 12, 2011.

<sup>355</sup> „Mălina Olinescu committed suicide. The singer proved that she could also fly to the sky without love”, Oana Racheleanu, Adevarul.ro, December 12, 2012.

<sup>356</sup> „Side-slip: The champions of the morbid titles in the Mălina Olinescu case”, Petrișor Obae, Paginademedia.ro, December 13, 2011.

<sup>357</sup> „The NCA fined 7 private television stations and summoned TVR 1 for broadcasting news about suicides”, Mediafax.ro, June 16, 2011.

explicitly decides upon the owner's right to intervene in the editorial product: "The radiobroadcaster can interfere in the editorial activity whenever it sees fit and especially when the delegation of the editorial policy does not produce the presumed effects". In its turn, the conscience clause becomes a relative value and is applied on a circumstantial basis. According to the ARCA Code, "the radiobroadcaster shall set out, with the show producers, the conditions that apply when the appeal to the conscience clause is used". The setting out of conditions, however, annuls the free nature that the clause implies<sup>358</sup>.

### **The Faculty of Journalism collaborates with a blackmailer-journalist**

The Faculty of Journalism and Communication Studies (FJSC) is partner, in a project for the employment of future journalists on the labour market, with a company owned by Bogdan Chirieac and Răzvan Dumitrescu. The "Online press, a window into the future" program, co-financed from the European Social Fund, is carried out by SC Press Media Electronic SRL, in partnership with the Bucharest University – The Faculty of Journalism and Communication Studies<sup>359</sup>. The general target of the project is "the development of the work abilities of students in the field of communication studies, in view of increasing their changes of integration on the labor market".

In November 2009, the Curentul newspaper published the stenographs of a discussion between Sorin Roșca Stănescu, Bogdan Chirieac and the chairman of the National Agency for Integrity, Cătălin Macovei, revealing that the two were blackmailing the dignitary<sup>360</sup>. The Romanian Press Club and the Romanian Journalists' Association imposed an exaggerated sanction for the gesture of Bogdan Chirieac and Sorin Roșca Stănescu, ordering the media institutions to no longer present them as journalists<sup>361</sup>.

### **Conclusions:**

- **Media, especially televisions, have speculated on the death of celebrities and turned their deaths in a media spectacle.**
- **The big radiobroadcasters treat self-regulation efforts in a superficial manner.**
- **The media continues to put an ethnic spin on crimes and accepts extremely violent and racist comments from its guests.**
- **The financial difficulties have increased the compromises made by the editorial offices, which distorted editorial content.**
- **In the Wikileaks case, Hotnews acted irresponsibly, publishing documents from uncertain sources and thus sabotaging the attempt of the investigative journalists ([www.crji.org](http://www.crji.org)) to broadcast the Wikileaks documents in compliance with the professional norms.**

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<sup>358</sup> A more detailed analysis of this code can be found here: „At the confluence between unacceptable and irresponsible: the most coveted deontological code of the present time”, Maria-Adriana Popa, Blog.ActiveWatch.ro, October 11, 2011.

<sup>359</sup> „DeCe News in partnership with FJSC launched the << Online press, a window into the future >> program”, Andrei Moisoiu, Dcnews.ro, April 10, 2011.

<sup>360</sup> „Roșca Stănescu and Bogdan Chirieac — blackmail the head of ANI”, Dana Iliescu, Curentul.ro.

<sup>361</sup> „The decision of the Media commission: Sorin Roșca Stănescu and Bogdan Chirieac should no longer be presented as <<journalists>>”, Hotnews.ro, November 19, 2009.

### **Recommendations for journalists and editors:**

- **Treat subjects regarding minorities in an equidistant and accountable manner. Do not assign singular incidents to an entire minority.**
- **Publicly sanction any ethical side-slips.**
- **Carefully check the sources of your information.**
- **Inform the public with respect to relevant and verifiable facts.**
- **Debate, adopt and publicize an ethical code of your editorial office.**
- **Strictly delineate roles within the press companies. The journalist should not be a marketing agent.**
- **Do not turn the dramas, the tragedies or the scandals of certain persons in a media spectacle. Respect the dignity of those who suffer.**

### **Recommendations for the Journalism faculties:**

- **Connect to the media market by means of constant dialogues with journalists and media NGOs and refuse any collaboration with persons of a questionable professional integrity.**
- **Set up an ethical board formed of reputable professors, professionals in the industry and media organizations. Tomorrow's journalists are the stake.**

### **Public television**

The changing of the TVR management in July 2010 did not also entail the disappearance of the accusations regarding the institution's enslavement to political interests. The amendment of the operating law, the first step towards turning TVR in a public television service, free from the political environment, was abandoned by politicians. The new President- General Manager (PDG) himself admitted that the current law is that one that allows political control and blocks the institution's operation ("this legislative background allows for a major political intrusion, provokes institutional instability, the legislation is confusing in the case of the Board of Directors, as well as in the case of the managing committee"<sup>362</sup>), and he also identified the moment of approval or dismissal of the annual activity report by the Parliament, as the main instrument for exerting political pressure upon political television<sup>363</sup>.

#### **Financial issues and the internal reform process**

TVR's financial issues generated many discussions regarding the fate of this institution, from the complaints of President Bănescu, Prime-Minister Boc or the opposition with respect to the need for the fee and the high level of expenses, continuing with the employees' frustration that the announced cutbacks and cost cuts are accompanied by the repeated hiring of employees, on very high salaries and ending with the announced cutbacks and cost cuts.

The deficit and the debts of public television, communicated by Alexandru Lăzescu last year, caused a

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<sup>362</sup> „UPDATE TVR ended 2011 with a deficit of Lei 160.8 million. The main deficit sources: the previous management's contract for UEFA and movies, the old Collective Employment Contract, the decrease of advertising, the historical debts – activity report”, C. Ionescu, HotNews.ro, April 12, 2012.

shock. The long-awaited reforms within the institution are still only in the project phase. The current management took concrete steps in that direction, but what remains to be seen is the support they will enjoy within the institution and, especially, in the political environment, so that they can be put into practice, especially considering the fact that this is an election year.

The report on 2011, submitted to the Parliament in April 2012, presents the main causes for the deficit and the huge debts of TVR, estimated at over EUR 110 million. The 2011 deficit is Lei 160.8 million, 2 million lower than the deficit in 2010. The main causes for these losses, in the opinion of Alexandru Lăzescu, President and General Manager of TVR since July 2010, are: the disadvantageous contracts concluded by the previous administrations, the low level of the TV fee, which had not been updated in over 10 years, the decrease of the advertising market, as well as a collective employment contract that is disadvantageous for the institution<sup>364</sup>.

The budget for 2012, adopted at the end of March 2012, provides for a 20% decrease of the staff expenditures and a 4% decrease of the salary fund, as compared to year 2011. The amount that TVR is to receive from the state budget is of Lei 150 million, namely 31% of TVR's financing sources, over 85% of said money is to be transferred to the National Radiocommunications' Society and part of it shall be used for the operation of TVR Internațional. Overall, the expenses of TVR shall be in 2012 approximately Lei 85 million lower than during the previous year<sup>365</sup>.

However, these intentions are contested by some TVR employees, who claim the vertiginous increase, over the last two years, on the number of TVR collaborators. The employees accuse the management that the new collaborators receive remunerations that are higher than those of the old employees, but also of the fact that the new collaborators are brought in on a political network or they do not have the necessary experience to work in TVR. PSD senator Lia Olguța Vasilescu published a list of the TVR collaborators' salaries on her blog<sup>366</sup>.

In April, TVR began an institutional analysis process for obtaining an international management standard in the media industry (the ISAS standard), similar to the ISO certification, conceived by Media & Society Foundation, a Switzerland-based consortium formed of professionals from television, written press and radio<sup>367</sup>. According to TVR's press release, "The benefits that TVR shall obtain pursuant to the certification include: eliminating the redundant processes and production flows and render the use of internal resources more effective"<sup>368</sup>. The entire process is expected to last until the end of 2012, and the auditing company expects a decrease of approximately 20% of TVR's expenses at the end of the certification process<sup>369</sup>.

In parallel with the institutional audit, TVR concluded a partnership with the Center for Independent Journalism, intended to "regain reputation and increase the public's trust. We intend to define and to explicitly communicate TVR's values and mission, to that the payers of the TV fee, on the one hand, and the TVR employees,

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<sup>363</sup> „Lăzescu: TVR has been at a loss for five years and survives from credits”, Adreea Ștefan, DailyBusiness.ro, March 22, 2011.

<sup>364</sup> „2011 activity report – Romanian Television”, <http://tvr.ro/files/113427.pdf>.

<sup>365</sup> „TVR tampers with positions and salaries”, Anca Simionescu, EvZ.ro, March 29, 2012.

<sup>366</sup> „A rebellion began in TVR”, Olguța Vasilescu, OlguțaVasilescu.ro, February 4, 2012.

<sup>367</sup> „TVR, audited by international consultants”, TVR.ro, November 4, 2011.

<sup>368</sup> Ibidem.

<sup>369</sup> „TVR could decrease its expenses by 20% after certification”, DailyBusiness.ro, November 11, 2011.



on the other hand, can relate to whatever Romanian Television offers to them"<sup>370</sup>. The project shall last for nine and when it ends, a "TVR Charter" shall be developed, namely a "comprehensive position document, which shall set forth in detail the institution's manner of operation and its fundamental values"<sup>371</sup>, according to the representatives of TVR.

## **Political partisanship**

### **The Rodica Culcer case**

Together with the financial issues of TVR, the situation of the former head of the Informative and Sports Show Department benefited from the biggest media coverage. Culcer was accused of being close to the power circles, of favoring the Government in the news shows and, especially, during the debate shows. Strong controversies were also generated by her contractual relations with the TVR and her dismissal by the Board of Directors, cases which are detailed in the "Workplace disputes" chapter of this report.

In 2011, ActiveWatch – Media Monitoring Agency notified TVR's Ethics Committee with respect to the Rodica Culcer's speech from an event of the Folk Studies Institute, a foundation owned by the Liberal Democratic Party. ActiveWatch considered that that speech "was full of partisan ideological opinions, meant to support the measures of the Boc government", considering that "such a stand is incompatible with the position held by Mrs. Culcer (Head of the Informative and Sports Show Department), because it seriously alters the independence and the impartial nature of public television. It is every journalist's right to have his/her own ideological options, which he/she may also express via the press. However, such partisan options do not belong in the public media, especially since TVR is declaring its efforts to regain credibility and to steer clear of the image of institution that is obedient to the "power". Moreover, Rodica Culcer did not use the media to express these options, but an event of a political party, attended by the highest state dignitaries, the quintessence of what we publicly call "power"<sup>372</sup>. The Ethics Committee considered that Rodica Culcer's gesture did not infringe upon the SRTV Statute of the Journalist, who is entitled, according to article 30, to "express his/her opinions with respect to the social and political life, by means of a non-partisan publicistic speech, within the general limits of honest commentary. He/she is free to present unpopular opinions, but in a motivated manner and in accordance with the law".

The accusations regarding Rodica Culcer's closeness with the PDL are not new. Ever since 2007, the former PDG, Tudor Giurgiu, notified the Ethics Committee with respect to the articles published by Culcer in a magazine the editorial agenda of which was in favor of President Traian Băsescu and the PDL. The Ethics Committee then found that the Journalist's Statute was breached – "The content of some of the articles proves that the head of the News Department failed to comply with her undertaking, on the basis of which she received the Managing Board's approval to collaborate in the written press"<sup>373</sup>.

Former presidential advisor Adriana Săftoiu declared in 2011 that, at the beginning of 2005, shortly after

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<sup>370</sup> „TVR increases its credibility by means of a program with secret costs”, Andreea Ștefan, DailyBusiness.ro, September 8, 2011.

<sup>371</sup> Ibidem.

<sup>372</sup> „Intimation to TVR's Ethics Committee –Rodica Culcer's statements”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, January 19, 2011.

Traian Băsescu was vested as President, Rodica Culcer "requested the Presidency's support, considering that she was being wronged when her collaboration contract failed to be extended"<sup>374</sup>. The TVR PDG at that time was Valentin Nicolau, during whose mandate the public television's editorial behaviour was extremely favorable to the Năstase regime. Culcer denied Adriana Săftoiu's claims, specifying: "There was no contract to extend, because I did not have a contract with the TVR; I hadn't worked in TVR since 2002, when Năstase fired me"<sup>375</sup>.

### **NCA sanctions for governance – opposition unbalance**

The monitoring conducted by the National Council of the Audiovisual (NCA) show an unbalance in favor of the governance, with respect to the governance and opposition representatives' participation in the debate shows on the TVR channels. For that unbalance, the NCA repeatedly sanctioned TVR with fines or public summons. Thus, TVR1 was sanctioned with a summons<sup>376</sup> on October 11. According to an NCA monitoring, during April 1 and August 31, 2011, the situation of the governance and opposition representatives' participation in the debate shows was as follows: April – governance - 31, opposition - 16, independents - 2, minorities- 1; May – governance - 41, opposition - 29, independents - 3, minorities - 2; June – governance - 38, opposition -24, independents -3, minorities - 1; July – governance - 32, opposition - 15, independents - 1, minorities - 0; August – governance - 4, opposition - 1, independents - 0, minorities – 0. Decision 135 of March 22, 2012 fined TVR1 with Lei 5,000 for the same reason, as the NCA's monitoring revealed the following figures: November – governance - 30, opposition - 17; December – governance - 18, opposition -16; January – governance - 21, opposition – 15. TVR2 received a summons by means of Decision 136 of March 22, 2012 for the same reason, as the situation of the governance and opposition representatives' participation in the debate shows, broadcasted in the aforementioned periods, was as follows: November – governance - 5, opposition - 2; December – governance - 5, opposition -2; January – governance - 8, opposition – 2.

### **PDL political marketing on TVR's shows**

The accusations of political partisanship are, unfortunately, also supported by a few editorial productions which can easily be assimilated to political marketing. At the beginning of May, the NCA fined TVR Lei 10,000 for political advertising in the "See you on TVR!" show with Marina Almășan on April 16, whose guests were Emil Boc (Prime-Minister at the time), Elena Udrea (minister of Regional Development and the Tourism) and Gheorghe Flutur (minister of Agriculture). TVR admitted to signing a co-production services contract of Lei 148,000 with the Ministry of Regional Development and Tourism (MDRT). The contract provided for the production of three shows, the second of which was fined. The first show was produced on March 26 and, in its turn, was sanctioned by the NCA with a public summons. The President of the NCA, Răsvan Popescu, stated that the sanctioned show is "made in co-production with the Ministry of Development and Tourism and features political figures who talk about their achievements, their political programs"<sup>377</sup>.

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<sup>373</sup> „Conclusions of the Ethics and Arbitration Committee's Meeting of June 25, 2007”, TVR.ro, June 13, 2008.

<sup>374</sup> „Rodica Culcer came to heel in Cotroceni”, Gabriela Antoniu, Jurnalul.ro, January 24, 2011.

<sup>375</sup> Ibidem.

<sup>376</sup> NCA decision no. 588 of October 11, 2011.

<sup>377</sup> „TVR1, given a Lei 10,000 fine for See you on TVR with Boc, Udrea and Flutur”, Carmen Maria Andronache, PaginaDeMedia.ro, April 28,

## The TVR Internațional Gala – The PDL Diaspora Praise

Another episode with political undertones occurred on December 3, at the 10<sup>th</sup> gala of the TVR Internațional awards. The show was broadcast on TVR1 and TVR Internațional in prime-time, on Saturday evening. The event was organized in co-production with the Department for Romanians Everywhere (DRP), subordinated to Prime-Minister Emil Boc and ran by Eugen Tomac, Prime-Vice-president of PDL Diaspora.

During the event, awards were given to various important figures from the political, diplomatic, cultural or sports life. Leonard Orban, minister of Foreign Affairs and former presidential advisor, received the award for foreign policy, handed to him by Sulfina Barbu, minister of Labor at the time.

According to the press releases of TVR and DRP, two special diplomas were granted "for supporting the Romanian communities in the Diaspora, to Mr. William Brânză, chairman of the Chamber of Deputies' Committee for the Romanian communities beyond the borders and Viorel Badea, chairman of Commission for Romanians Everywhere, within the Senate"<sup>378</sup>. According to said press releases, these awards were granted by the DRP. William Brânză is the president of the PDL Diaspora, and the head of the DRP is the Prime-Vice-president of PDL Diaspora. However, in a statement given to the online newspaper Gândul, William Brânză claimed that "the proposal did not come from the DRP, but from the public television, at the request of the Romanians living abroad"<sup>379</sup>.

The handing over of the award granted to William Brânză was accompanied by a reverential speech by the person whom Brânză himself invited for that occasion, professor Magda Jianu: "a wanderer himself, in search of other identifies, he experimented the harshness of the far away"; "he had become, within a very short period, the glue and the engine of the Romanians abroad (...) wiping their tears, giving them his own shoulder to cry on (...)"; "as Mircea Eliade says, the cosmos is the gods' masterpiece (...), the harmony of the space occupied by Romanians beyond the borders is William Brânză's masterpiece"<sup>380</sup>.

## TVR – the parties' plaything

The accusations of political favoritism are also fueled by the presence of certain persons who are close to parties or ideologies, either on management positions or in the editorial body. Most of the hosts and commentators employed after Rodica Culcer's reinstatement at the management of DEIS in 2010 are well-known for their opinions in favor of the current governance and their conservative ideology<sup>381</sup>. Also, persons who run public institutions, politicians or parliamentarians have shows on public television (PDL senator Radu F. Alexandru, the president of the Romanian Cultural Institute Horia Roman Patapievici).

The membership of the Board of Directors (BD) represents yet another proof of the manner in which political parties relate to the institution. They appointed persons who are close to them, as representatives of the

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2011.

<sup>378</sup> „The Gala of the TVR Internațional Excellence Awards– anniversary edition”, TVR.ro, December 5, 2011.

<sup>379</sup> „Homage to Brânză, the true heir of Eliade and Sorescu. Public television organized the gala of the PDL awards. VIDEO”, Clarice Dinu, Gândul.info, December 5, 2011.

<sup>380</sup> „TVR Internațional awards, hijacked by the praises sung to William Brânză. How did he end up being praised at Saturday evening's Gala?”, C. I., HotNews.ro, December 5, 2011.

<sup>381</sup> For example, the chief executive officer of the Folk Studies Institute (ISP), foundation of the PD-L, frequently appears in news and debate

BA in the TVR. Thus, Ada Meseșan (from PDL) was the spokesperson of that party. Paul Călin Botez (PDL) is the personal advisor of the president of the Chamber of Deputies, Roberta Anastase. Nicoleta Nicolicea (PDL) is the husband of UNPR deputy, Eugen Nicolicea. Anne Jugănar (PSD) is the chief executive officer of the Ovidiu Șincai Social-Democratic Institute, a foundation owned by PSD, and ran in the parliamentary elections in 2008 for a position in the Parliament, on behalf of that party. Claudiu Brânzan (PSD) was a Galați prefect on behalf of PSD and a spokesperson for PSD-Galați. Cristian Nițulescu (PSD) is a TVR experienced journalist, former editor-in-chief during Valentin Nicolau's mandate, when he was accused by the journalists in the editorial office of censorship and obedience to the then governing party (PSD).

The territorial offices were not exempt from suspicions regarding political appointments in various editorial or managing positions. Thus, the new head of TVR Craiova, Cristi Nedelcu, was an image advisor for the Dolj prefect, prior to being appointed in his position.

An anonymous memorandum was submitted to the President and General Manager of TVR, Andi Lăzescu, by a group of journalists from TVR Craiova. The memorandum was taken over and published by Rodica Culcer on her blog<sup>382</sup>. The document's authors invoked fear as their reasons for the refusal to openly sign the document accusing the management of TVR Craiova of mismanagement, political obedience, corruption, etc. "First and foremost, please understand why we are not signing this memorandum. IT'S BECAUSE WE ARE AFRAID! They managed to limit us, to take any shred of dignity from us, to destroy all of the ideals with which we came to work in this place which, in our naïveté, considered fascinating. During all the years since we've been employees of this institution, we have been harassed, terrorized, marginalized and discredited for the sole reason that we wanted to do our job in an honest and professional manner and we chose not to be part of the incompetent, obedient crowd of the TVR Craiova big family". The main culprit for that situation was, apparently, the former manager of TVR Craiova, Traian Bărbulescu, who subsequently became a member of TVR's BD.

The manager of TVR Cluj, Romeo Couți, was associated with a possible candidature in tandem with the independent deputy Mircea Giurgiu at the Cluj County Council ("The candidacies at the management of the County Council are currently an interlacing project. We are talking about representing several NGO areas, media, and I was flattered to be invited in this project", Couți declared for OradeCluj.ro<sup>383</sup>. Eventually, it seems that Couți gave up and Mircea Giurgiu announced his candidacy to the Cluj City Hall without mentioning the existence of a tandem.

Orban Katalin, the wife of Sebesi Karen, member of the TVR Board of Directors on behalf of UDMR, was appointed in October editor-in-chief of the Hungarian department of TVR Cluj, after the former editor-in-chief, Bardocz Sandor, was fired pursuant to an activity report drawn up by manager Romeo Couți, which was deemed "unsatisfactory" on all counts<sup>384</sup>. According to the Cluj publication, at the appraisals of the previous years, Bardocz obtained "good" and "very good". According to the same publication, "Sources from the public television specified that the former editor-in-chief of the Hungarian Department, Bardocz Sandor, is suspected of sympathizing with

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shows on TVR, as a commentator, without specifying her affiliation to the ISP.

<sup>382</sup> „About TVR Craiova”, Rodica Culcer, RodicaCulcer.ro, February 9, 2012.

<sup>383</sup> <http://oradecluj.oradestiri.ro/directorul-tvr-cluj-romeo-couti-invitat-sa-candideze-la-presedintia-consiliului-judetean-e-un-proiect-impletit-am-fost-magulit/actualitate/2012/01/09/>

<sup>384</sup> „Scandal at TVR Cluj! Member of the BD, Sebesi Karen, supported by UDMR, <<planted>> his wife in the position of editor-in-chief of the

the party of Laszlo Tokes, the Hungarian People's Party in Transylvania, which created a big <<annoyance>> within UDMR Cluj”.

### **Political pressures**

The leaders of the opposition, Victor Ponta and Crin Antonescu, accused TVR of favoring the governance in the news and debate shows, asking the dismissal of Rodica Culcer from the position of manager of DEIS. Some of these attacks consisted in insults (Crin Antonescu called Rodica Culcer "a shameless pensioner" and journalists Mircea Marian and Ioana Lupea – "press losers"<sup>385</sup>), others consisted in gestures which may be interpreted as actions of undermining the idea of public television.

On December 11, Victor Ponta held a press conference during which he claimed that he would no longer pay his TVR subscription: "It is a type of protest that I take upon myself, including in the case that I am held responsible under the law, of not paying any money to see Willy (William – editor's note) Brânză and the young PDL supporters. It is a disgrace. I am officially announcing that I refuse to pay this fee and I am prepared to comply with the rigors of the law. I shall open on my website as well a list for those who also have the courage to break the law and no longer pay the fee. I refuse to pay for Băsescu's television"<sup>386</sup>. Ponta also claimed that "public television should enter a circuit of competition with the other televisions"<sup>387</sup>.

The two leaders of the opposition claim that TVR favors president Traian Băsescu both by means of the slots granted and by the type of shows in which he is invited – those special editions in which the president or the Prime Minister are the only guests. Ponta and Antonescu requested such conditions for themselves as well, claiming that they had always been invited together with other guests ("TVR refused, throughout all of 2011, to invite me or Crin in a format identical to that which Mr. Băsescu was granted 14 times, which actually allows us to speak. We have always been invited together with 3 or more other participants, all of them just as "independent" as the lady invited last night, with the same appetite of talking incessantly, covering the voice of the guests and asking them questions which they answer themselves!"<sup>388</sup>).

In response to these accusations, TVR invoked the opposition leaders' refusal to participate in TVR's debate shows ("Thus, Victor Ponta refused five invitations to participate in "Forefront" and "The daily Theme", and Crin Antonescu, refused four"<sup>389</sup>).

The political people's complaints also take the form of absurd legislative initiatives. In May, PNL deputy Mirel Taloș submitted a draft amendment of Law 41/1994 for the operation of the public radio and television services, which provided for the privatization of the two public institutions' management, apart from the separation of the position of chairman of the Board of Directors from that of General Manager. The PNL deputy proposed that the management duties of the general manager should be taken over by a private management firm selected pursuant to an international auction. The Taloș project was dismissed by the specialized committee of the

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Hungarian department”, ȘtiriDeCluj.ro, October 18, 2010.

<sup>385</sup> „Antonescu about Rodica Culcer: <<A shameless pensioner>>”, Valentina Deleanu, Adevărul.ro, October 29, 2011.

<sup>386</sup> „Ponta: I am officially announcing that I shall no longer pay my TVR subscription”, Realitatea.net, December 11, 2011.

<sup>387</sup> „Ponta: TVR – a national catastrophe. TVR: The public television is a reputable and credible brand”, Mediafax.ro, October 20, 2011.

<sup>388</sup> „The TVR regime's mercenaries”, Victor Ponta, BlogPonta.wordpress.com, January 10, 2012.

Chamber of Deputies in November.

In their turn, the representatives of the governance exerted pressure over the TVR by making various statements and taking stands.

At the meeting with the PDL deputies on November 6, Emil Boc requested the replacement of Andi Lăzescu from the position of President and General Manager, because "he did not do anything for the party. (...) He did not do any cutbacks, he doesn't have a plan, he didn't do anything, you should call him and shake him up at the committee and then we'll see, we dismiss the TVR report in plenum and then we can replace him"<sup>390</sup>. Asked by ActiveWatch to confirm the authenticity of these claims, Prime-Minister Boc offered no response. The same Emil Boc had told TVR journalist Mihai Rădulescu off in 2010, during an interview conducted on TVR1, because the latter asked him uncomfortable questions – "you sound like you're from Antena 3".

In total agreement with Victor Ponta, President Băsescu claimed on B1Tv, on September 22: "I do not consider any TVR and Radio fee moral. As long as they receive subsidies, they should be free, without any kind of fee, adapt to the day-to-day life and survive from advertising. And if they do not manage to survive from advertising, they'd better carry out some cutbacks. They'd better not keep 3,600 employees at the Television and 2,800 at the Radio"<sup>391</sup>.

#### Conclusions:

- **TVR did not manage to escape the image of television station in favor of the governance in 2011 either. Political marketing shows in favor of PD-L leaders; NCA sanctions for editorial unbalance in favor of the governance; the screen is overpowered by hosts, guests and commentators in favor of the governance; the head of news participates in events of the governing party, in which she expresses her support of the Boc government.**
- **A controversial decision was made, barely legal and assimilable to political pressures, namely that of the Board of Directors' dismissal of Rodica Culcer from the management of DEIS.**
- **Pressures were exerted upon TVR by the governance leaders, the opposition leaders and the presidency, accompanied by demands for the elimination of the TVR fee.**
- **TVR's huge deficit makes it inevitable to take certain institutional reform measures. The management commenced actions to that effect, beginning with an institutional audit and a project for redefining the TVR values, while also announcing staff cutbacks.**
- **The budget for 2012 provides for a 20% decrease of staff expenditures. The last two years registered a high number of employments, despite the fact that staff cutbacks had been announced.**
- **The legal reform and the institutional reform are crucial for rendering politics-free public radio and television services.**

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<sup>389</sup> TVR Press Release, November 1, 2011.

<sup>390</sup> „Exclusive. Boc on the head of TVR: <<He must be replaced, he did nothing for the party!>>”, Valentina Deleanu, Adevărul.ro, November 7, 2011.

<sup>391</sup> „Băsescu: I do not consider any fee for TVR and the Public Radio to be moral”, DailyBusiness.ro, September 23, 2010.

## Recommendations for politicians and members of the Board of Directors:

- **The amendment of the law for the operation of SRR/SRTV is the premise of the institutional reform of SRR/SRTV.**
- **The persons nominated by the Parliament in the boards of directors of the television and public radio should be selected on the basis of professional criteria, not on the basis of political negotiations.**
- **The Board of Directors should take its prerogatives into account and avoid arbitrary decisions that jeopardize the institution.**

## Recommendations for the employees:

- **Use the protection granted by the Law of the public "whistleblower", in order to announce any abuses that you might learn about, within the two institutions.**

## Legislation

### Restriction of the press' access to the criminal files

In February 2011, PD-L deputy Mihail Boldea submitted two draft laws to the Parliament, which referred to the limitation of the press' access to the criminal files in the lawsuits pending with the courts, until a final judgment was passed. One of said initiatives sought the amendment of Law 544/2001 on the free access to information of public interest, and the second sought the amendment of the old Penal Code. "The press is not subject to the law. My proposal does not say anywhere that it's got anything to do with the press. The press must be free to work without any restrictions. My interest is that the press should do their job; I only wanted to cut off the press' judicial sources"<sup>392</sup>, Mihail Boldea declared.

The proposed amendment of Law 544/2001 on the free access to information of public interest takes out of the public interest category the information in the criminal files in the prosecution stage or pending with the court, until a final ruling is passed<sup>393</sup>. The same draft provided for the disciplinary sanctioning of those who "voluntarily or involuntarily disclosed or provided such information". The presentation of motives by initiator Mihail Boldea stated that "Over the ten years of implementing the provisions of Law 544/ 2001 on the free access to information of public interest, numerous warnings have been given by society and a number of individuals, with respect to the leaks of confidential information, existing at the time of implementing of the provisions invoked in the aforementioned law". The Government did not support this legislative initiative and published an opinion whereby it expressed its concern that it might affect freedom of speech. The Government's opinion also referred to the fact that Law 544/2001 "already contains elements that represent grounds for a restriction of the access to such information by the public authorities"<sup>394</sup>. This legislative proposal was dismissed in the Senate in June and in September received in a report of dismissal from the Commission for culture, arts and the media. Had said

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<sup>392</sup> „AUDIO What deputy Mihail Boldea is saying about the limiting of access to criminal files: <<My objective was to cut off the journalists' sources >>”, Attila Biro, HotNews.ro, February 21, 2011.

<sup>393</sup> Pl-x nr. 279/ 2011. Legislative proposal for the amendment and supplementing of Law 544/2001 on the free access to information of public interest, CDep.ro, February 18, 2011.

<sup>394</sup> Ibidem.

legislative initiative been approved, it would have affected the transparency of the justice act, as well as the right to information and free speech, belonging to the journalists (investigative and not only) who write about case files of public interest (details in this respect, in the "Access to the information of public interest" Chapter hereof).

The legislative proposal for the amendment and supplementing of Law no. 15/1968 on the Penal Code (old version) added the article according to which "The deed perpetrated by any public prosecutor, judge, policeman, gendarme or any other person who, by virtue of his/her position, has access to information in criminal case files, to disclose, transmit or publicize in any way, directly or indirectly, data or information in such case files, prior to the ruling of a final court decision, shall be punished by imprisonment from 1 to 5 years and the prohibition of certain rights"<sup>395</sup>. The senate dismissed the initiative in June. In the presentation of motives, deputy Mihail Boldea motivated the inclusion of this article as follows: "In practice, by taking advantage of the omission of certain punitive provisions to that effect, of Law 15/ 1968 on the Romanian Penal Code, some clerks who have access to such case files, offer data from the criminal case files that are pending with the courts of law or are in the prosecution stage, without the parties prior consent, and that information is then used to exert a pressure upon the investigators, the courts or the parties in the case file. Furthermore, by the public disclosure of confidential information from a case file pending with the courts of law, a person's image is injured and damaged, before the competent courts have a chance to make a final decision"<sup>396</sup>. An opinion of the Government with respect to this legislative initiative highlighted the fact that the new Penal Code already has an article to that effect, which is sufficient. Thus, Article 276 of the new Penal Code sets out "compromising the interests of justice" as a crime. According to this article, "(1) The unlawful disclosure of confidential information regarding the date, the time, the place, the manner or the means by which a piece of evidence is to be delivered, by a clerk who learned about it by virtue of his/her position, if by such disclosure the criminal investigation may be hindered or prevented, is punishable by imprisonment from 3 months to 2 years or by a fine. (2) The unlawful disclosure of any means of proof or official documents in a penal case, before a decision not to sue is made or the final resolution of the case, by a clerk who learned about it by virtue of his/her position, is punishable by a fine. (3) The unlawful disclosure of information pertaining to a penal case, by a witness, expert or interpreter, when such prohibition is imposed by the penal procedure law, is punishable by a fine. (4) The disclosure or revealing of illegal acts or activities committed by authorities in a penal case is not considered a crime".

Deputy Mihail Boldea was arrested, in March 2012, for fraud and the establishment of an organized crime group. It is noteworthy that more than one quarter of his 49 legislative initiatives targeted amendments of the Penal Code, of the anti-corruption legislation, of the operation of DIICOT or were with respect to the enforcement of punishments and work in detention<sup>397</sup>.

### **The audiovisual legislation**

In March, the Chamber of Deputies' Committee for culture, arts and the mass media issued a favorable

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<sup>395</sup> „PI-x nr. 474/ 2011. Legislative proposal for the amendment and supplementing of Law no. 15/ 1968 on Romania's Penal Code, with its subsequent amendments and additions”, Cdep.ro, February 18, 2011.

<sup>396</sup> Ibidem.

<sup>397</sup> „Deputy Mihail Boldea was paving the way: he wanted to amend the laws regarding DIICOT and detention”, ȘtirileProTv.ro, March 22, 2012.



report with respect to a legislative draft or the amendment of the Audiovisual Law (504/2002)<sup>398</sup>. The draft was submitted in February by PD-L deputies Raluca Turcan, Cezar Preda, Brândușa Novac and Mariana Chircu.

The initial form of the draft law integrated most of the provisions of the Code for the regulation of the audiovisual content<sup>399</sup>, which would have restricted the freedom of the National Council of the Audiovisual (NCA) to adjust the policies of control depending upon the audiovisual environment. Several representatives of civil society accused the initial form of the legislative proposal of excessive regulation and even editorial interference. Furthermore, in the form submitted by its initiators, part of the important duties that the NCA exercises in its capacity as autonomous public authority (participating in the international negotiations with respect to the audiovisual field and the right to issue advisory opinions with respect to the normative act drafts regarding this field) were eliminated.

For example, according to the initiators' version, Article 21<sup>3</sup> would impose upon the anchors/hosts the obligation to be impartial in the news and debate programs on subjects of public interest. In other words, they would be allowed to utter any personal opinions, which is a breach of the right to freedom of speech. Article 21<sup>4</sup> is trying to correct this shortcoming, but ends up being unclear: "In exercising the right to express opinions or points of view with respect to subjects of public interest, anchors and hosts must ensure a clear separation of the opinions from the facts and must not take advantage of their constant appearance in programs in a manner that contradicts the requirements of ensuring impartiality". Article 40<sup>4</sup> also raises concerns from the point of view of the right to inform as, once adopted, it would admit the recording/filming in public places as the only exception for the broadcasting of images or recordings with people held in custody for investigation purposes, arrested or in detention, without their consent. Public interest is not invoked as an exception from this article. Filming persons undergoing treatment in medical assistance units with a hidden camera is an extremely restrictive public interest exception, which would not cover all situations encountered by journalists (Art. 45). The draft also implements limitative and detailed provisions regarding the right to respond and rectify, to the detriment of the secondary legislation issued by the NCA.

During the debates at the Chamber of Deputies' Committee for culture, arts and the mass media, also attended by the members of the National Council of the Audiovisual, as well as by representatives of some radiobroadcasters and of several human rights organizations, the draft was amended so that the articles amended or added to the law were given a more reasonable form<sup>400</sup>.

Unfortunately, the draft law was tacitly passed on May 17, in accordance with the provisions of article 75 paragraph (2) of the Constitution and article 113 of the Chamber of Deputies' Regulation, the term for the debate and final vote being exceeded<sup>401</sup>. This means that the form passed and submitted to the Senate is the initial one, not the one amended pursuant to the debates in the Chamber's mass media Committee.

In February 2011, the National Council of the Audiovisual passed a new Code for the regulation of the

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<sup>398</sup> „PI-x nr. 48/2011. Legislative proposal for the amendment and supplementing of audiovisual Law no. 504/ 2002, with its subsequent amendments and additions”, Cdep.ro, February 17, 2011.

<sup>399</sup> Decision no. 220 of February 24, 2011.

<sup>400</sup> The report of the Committee for culture, arts and the mass media.

<sup>401</sup> „The Chamber of Deputies Meeting of May 17, 2011”, Cdep.ro.

audiovisual content. The Code was debated during 2010. Details on the amendments brought by said act can be found in the FreeEx Report 2010.

In July, a new amendment of the Code came into force. Thus, paragraph 2 of Article 17 was amended as follows: "Between 6:00 and 22:00 one cannot broadcast programs, other than audiovisual fiction productions, which contain descriptions or reenactments of homicides/suicides/mutilations/self-mutilations or criminal techniques or occult practices.

(2) In the case of these dramas, radiobroadcaster cannot broadcast images from the place of the tragedy or images that show the suffering of family members or other persons close to the victim or to his/her family". "In this way, we are protecting the victim's and the victim's family's dignity and image, especially when the victim is a child or a teenager"<sup>402</sup>, said Răsvan Popescu, president of the NCA. This amendment was criticized because it prevents radiobroadcasters to present images from the place where tragedies occurred, including images that can be filmed from the public space. In practice, however, this norm has proved impossible to comply with, especially in the cases of tragedies of a high public interest (for example, the attack at the Perla hair salon in Bucharest).

In May, PNL deputy Mirel Taloş submitted a draft amendment of Law 41/1994 for the operation of the public radio and television services, which provided for the privatization of the two public institutions' management, apart from the separation of the position of chairman of the Board of Directors from that of General Manager. The PNL deputy proposed that the management duties of the general manager should be taken over by a private management firm selected pursuant to an international auction. The Taloş project was dismissed by the specialized committee of the Chamber of Deputies in November.

In December, the Senate passed the initiative of PNL deputy Mirel Taloş to amend the audiovisual Law. According to said draft, generalist televisions were obligate to weekly broadcast at least 120 minutes of cultural or educational shows, and news channels were to broadcast 30 minutes of such programs every week. The draft provided that cultural and educational shows include: music (concerts or recitals of classical music, music history shows, opera performances, etc.); fine arts and decorative arts; literature; dramaturgy; cinematographic art; ballet; architecture; Romanian folk culture (shows on traditions, Romanian folkloric music, placed in a critical or historical context, shows presenting the civilization of the Romanian village etc.); European folk culture (shows of presentation of the European civilization, shows on traditions etc.); history; science.

In January 2012, however, the Presidency demanded that the legislative proposal be reexamined. "The audiovisual law contains provisions that have been harmonised with the provisions of Directive 89/552/CEE of the European Parliament (the Directive on audiovisual media services) and provides that by means of broadcasting the program services, one achieves political and social pluralism, cultural, linguistic and religious diversity, the public's information, education and entertainment, in compliance with the fundamental human freedoms and rights. We believe that the imposing of certain requirements and limits with respect to the content of the programs provided by radiobroadcasters is not advisable and limits the freedom of the press. We also consider that the public is the one that can choose the show or the radio or TV channel, from a multitude existing on the market, and a legislator's

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<sup>402</sup> Decision no. 459 of June 28, 2011 for the supplementing of the National Council of the Audiovisual's Decision no. 220/2011 on the Code for the regulation of the audiovisual content.

intervention in this respect is not necessary"<sup>403</sup>, stated the application for reexamination, issued by the Presidency.

### **Ghișe's Law, dismissed by the Senate**

On May 4, 2011, senators dismissed (with 70 to 6 votes) the draft Law on the journalistic profession, initiated by PNL senator Ioan Ghișe in September 2010. The draft law proposed that the journalists should be able to carry out their activity only if they have a journalist card. According to the draft law, only the person cumulatively meeting the following requirements could act as a journalist: holds the capacity to exercise civil rights; is mentally capable to exercise the profession, which must be proved by a mental examination every three years; has never been subject to a final criminal sentencing for: theft, rape, robbery, murder, defrauding, betrayal of his/her country and other deeds incompatible with social morals (article 18, paragraph 1). The exercise of the journalistic professions was considered incompatible with: occupations that injure the dignity and independence of the journalistic profession or good manners; the direct exercise of material trade acts. According to the draft, the journalistic activity could only be carried out in individual or associated (several journalists) journalistic offices. The law also proposed the setting up of a National College for Journalists, with main duties of organization, but also with the duty to terminate the right to practise, for the aforementioned incompatibilities. An institution called the Ombudsman was to apply administrative fines for a series of law infringements, such as the publishing of journalistic materials that do not originate from the holder of a journalist card, even going as far as to temporarily prohibit the appearance of a publication or a radio or TV show. At least one half of the draft law contained provisions that fall under an ethics code, not a law, which obviously exceeded the scope of the enactment process. The draft was drawn up without consulting any of the trade's significant organizations and was harshly criticized by several journalists, politicians and media and human rights organizations (details in the FreeEx Report 2010).

Even though this legislative draft was dismissed, some politicians continued to claim that a press law would be necessary. On May 3, on the World Freedom of the Press Day, twelve NGOs submitted an (ironic) draft Law of the press, which contained a single article: "In Romania, the press is free. Any form of censorship is prohibited". The "Draft Law" came as a response to the request of the Committee for human rights, religions and minorities in the Romanian Senate, addressed to the media professional organizations, to present proposals for the regulation of the journalist profession until May 3, 2011. "Accountable press is free, professional and capable of self-regulation. This is why we need to encourage the freedom, professionalization and self-regulation of the press. New laws cannot render journalists more accountable. The increase of professional standards and the promotion of values in the profession can only be achieved from inside the trade, by undertaking and implementing deontological codes and viable self-regulation mechanisms. By means of self-regulation, journalists shall have more control over their profession, the freedom of the press shall consolidate and, thus, Romanian society's interests shall be better served", stated the presentation of motives of this legislative draft. Some politicians did not agree with the subtext message. "Romanian needs a law of the press, which regulates a very debates activity, because if we keep postponing for fear of what the journals might write, we're doing a negative thing"<sup>404</sup>, said UDMR senator Gyorgy

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<sup>403</sup> „Băsescu demands the reexamination of the law that ordered televisions to weekly broadcast cultural shows, on the grounds that it limits the freedom of the press”, Gabriel Pecheanu, Gândul.info, January 5, 2012.

<sup>404</sup> „Frunta: Romania needs a law of the press”, Mediafax.ro, May 17, 2011.

Frundea on May 11, at a debate regarding the FreeEx Report launched in 2011. On the same occasion, the UDMR senator declared himself in favor of the temporary suspension of the right to practise, for the journalists who repeatedly breach human rights – a measure considered abusive by the organizations promoting the right to the freedom of speech<sup>405</sup>.

### **Another "Big Brother" Law**

In June 2011, the Ministry of Communications and Information Technology (MCSI) launched, for public debate, the "Draft law on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks"<sup>406</sup>. This happened despite the fact that a strikingly similar law was declared unconstitutional in 2009<sup>407</sup>. The reiteration of a form that was similar to the first law occurred as a result of the pressures of an European Directive (2006/ 24/ EC) which ordered the EU members states to "harmonise the member states' provisions regarding the obligations of the public communications networks with respect to the retention of certain data generated or processed by such providers, in order to ensure that the data is available for the purpose of the investigation, detection and prosecution of serious crime, as defined by each Member State in its national law"<sup>408</sup>. The "new" legislative proposal, known to the general public as the "Big Brother Law", orders providers to retain, for a period of 6 months, the users' traffic, location and identification data and to provide it to the criminal prosecution bodies, the courts of law and the state bodies with duties in the field of national safety.

Several human rights organizations have noticed that the "Big Brother Law" presents a series of problems related to: the limiting of the citizens' rights and freedoms, the security of the retained data, the access to the retained data and the additional costs for providers and users<sup>409</sup>. The data retained in the event that the law is passed include: the identity of the initiator and the addressee of a communication, the date, the time and the duration of a communication, the type of communication, the communication equipment used and the location data thereof. The retention of said data is of the nature to affect the right to private life, the protection of personal data and the freedom of speech, as: combined, such data may offer detailed information about the individual's private life; the measure of retention of the data applies to all users, on a permanent basis, thus becoming a general rule, and not an exception from the obligation to comply with the citizens' rights; the retention of the data for all users automatically turns them into persons that are susceptible of committing crimes, therefore their presumption of innocence is affected; it affects the right to private life not only for the initiator of a communication, but also for its addressee, who is identified only because of being contacted by the communication's initiator. The restriction of such rights is permitted by the Constitution solely provided that it is

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<sup>405</sup> „The inevitable law of the press”, Liana Ganea, Blog.ActiveWatch.ro, May 18, 2011.

<sup>406</sup> „MCSI launches the draft law on the retention of data, for public review”, MCSI.ro, June 23, 2011.

<sup>407</sup> „Decision 1258 of October 8, 2009 regarding the constitutional challenge of the provisions of Law no. 298/ 2008”, published in Official Gazette no. 798 of November 23, 2009, Legi-Internet.ro.

<sup>408</sup> „Directive 2006/24/CE of the European Parliament and Council of March 15, 2006, on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and the amendment of Directive 2002/58/CE”, the Official European Union's Journal, Eur-Lex.Europa.eu, April 13, 2006.

<sup>409</sup> „Point of view with respect to the legislative proposal on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks”, the Association for Technology and the Internet (ApTI), the Association for Human Rights – the Helsinki Committee (APADOR-CH), ActiveWatch – Media Monitoring Agency, the National Association of Internet Service Providers (ANISP), the Centre for Independent Journalism (CJI), the Romanian User Rights Organization (ORDU), Copyratul Român Association, Ceata, ActiveWatch.ro, February 9, 2012.

necessary and proportional to the situation that caused it. However, the necessity of the measure was not proved with any concrete evidence, and the proportionality is not ensured, as the retention of data is permanent and applied to all users.

On the other hand, the data proposed for retention is sensitive information and requires a proper protection from any illegal accessing. However, the legislative proposal does not contain sufficient guarantees as to ensure the security of the data during their storage at the providers and does not address the issue of the data's security at the time of its transfer to the competent bodies or during their storage and use. Moreover, the legislative proposal contains unclear and therefore interpretable provisions, regarding the state bodies that may request access to the retained data and the conditions in which such access may be gained. This may create the premises for abuses from the state authorities, especially those with duties in the field of national security, which are not exhaustively listed. Even though it mentions that the competent bodies use the retained data for the prevention, investigation, detection and prosecution of serious crime, there is no provision that guarantees the fact that the state bodies cannot request and use the data for other purposes as well. Furthermore, the creation and management of the databases necessary for the retention of data would also imply a number of major expenses for the providers, which would most likely be reflected in the tariffs charged from the users. Also, the Law's opponents found that it extremely likely that a distortion of the communications market should also occur as a result of the small and medium operators' incapacity to bear such expenses. Given all of these risks, the NGOs requested the deputies to dismiss the law, even at the risk of a sanction from Brussels<sup>410</sup>.

### **MAI wanted to amend the Law on Public Gatherings**

In September 2011, the Ministry of Administration and Internal Affairs submitted for debate a draft for the amendment of law 61/1991 on the organization and progress of public gatherings. This initiative was intensely criticized by civil society. Over 30 human rights organizations remanded that this proposal be dismissed and that the already existing form of the law be maintained<sup>411</sup>. The arguments to that effect supported the idea that the law's form already in force sought to protect and to guarantee freedom of speech, while the draft for the amendment of the law rather resulted in a limitation of such freedom.

The restrictive nature of the proposal for the amendment of the law on public gatherings could be easily noticed from the removal of the first paragraph of Law 61/1991, which approved the fact that "The citizens' freedom to express their political, social or other opinions, to organize rallies, parades, manifestations, processions and any other gatherings and to participate in them, is guaranteed under the law". Also excluded was the article according to which "Municipal, town or commune city halls and local police bodies are obligated to ensure the necessary conditions in view of a proper progress of public gatherings and the organizers are obligated to carry out the necessary actions so that they proceed in accordance with the provisions of article 2". In other words, the steps and the emergency intervention procedures were no longer listed: the summons disappeared, thus leaving the police forces much more freedom to assess the situation regarding the commencement of an emergency

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<sup>410</sup> „NGOs: Romania should not pass the so-called Big Brother Law, even at the risk of a sanction from Brussels / The law transforms, on an <<a priori>> basis, all users into possible criminals”, Adrian Vasilache, HotNews.ro, August 3, 2011.

<sup>411</sup> „Statement of protest with respect to the draft <<Law on the organization and progress of public gatherings>>”, CriticAtac.ro, September

intervention. Another major shortcoming of the draft law was that the Presentation of Motives referred to "a decrease of criminality" and the "decrease of the number of criminal acts", but brought neither solid arguments in support of the need to impose restrictions with respect to the organization of public gatherings, nor evidence regarding criminal actions or violence acts committed at public gatherings.

An assessment developed by ActiveWatch at the publication of the draft Law revealed that it approached the public gathering in terms of a threat to national security<sup>412</sup>. Thus, Article 4 of the draft mentioned the Gendarmerie as being the only authority capable to assess the level of risk of the public gatherings. It would have been advisable for the entire assessment committee to appraise such level of risk and that the methodology on the basis of which the division of public gatherings was to be made should be an integral part of the Law. On the other hand, Article 6 contained several vague phrases, easily interpretable by the police forces ("terrorist-diversionary organizations", "provocation to discriminate", "the norms of public morality", "defamation of the country or the nation"), in the absence of a clear methodology to identify such elements. As a consequence, the potential implementing of this article risked seriously affecting the freedom of speech and the freedom to gather, as it implied the risk of an abusive interpretation of these provisions. Furthermore, Article 7 added, among the institutions in the proximity of which any form of public manifestation was to be prohibited, those "with a secured military protection". No explanation was given with respect to this restriction. Moreover, the restriction seriously limited the spaces in which the gatherings could take place. Given the fact that most public institutions have military protection (Presidency, Government, Ministries, Parliament, Prefectures), the citizens would have been prohibited from expressing their opinion exactly in front of these institutions, which have an important role in the passing of public policies. Moreover, the phrase "immediate proximity of the subway stations" reduced the space in which the manifestations could be organized even more. And, while Article 7 delineated the spaces in which the public gatherings could take place, article 30, paragraph 1, mentioned that: "the local Council issues decisions that establish the places where public gatherings are allowed to take place". Thus, the places in which such gatherings were allowed to take place could be limited even more by means of a decision of the Local/General Council.

Article 9 of the Draft Law introduced a process of approval (authorization) of the organization of a public gathering, which contradicted Article 39 of the Romanian Constitution, according to which "The rallies, demonstrations, processions or any other gatherings are free [...]". Article 10 also provided: "In order to obtain the approval provided for under article 9, the organizer must submit a prior statement with the city hall with competence over the area in which the public gathering is to be organized, at least 5 business days prior to the organization thereof ". Among others, Article 12 set out the committee's right to dismiss the approval of a public gathering's organization on "reasonable grounds" – a vague and non-motivated phrase, which left the approval or restriction of a fundamental right at the committee's discretion. The Draft Law also ordered the organizer to set oneself up as a civil protection body, preventing the "escalation into turbulent actions". In fact, by giving the organizer social positions that, in fact, pertain to public authorities (local police, gendarmerie), the organization of public gatherings would have been discouraged. The Romanian state has police forces, as well as the necessary

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<sup>15</sup>, 2011.

<sup>412</sup> „The ActiveWatch comments with respect to the draft Law on the organization and progress of public gatherings”, ActiveWatch – Media Monitoring Agency, ActiveWatch.ro, September 19, 2011.

infrastructure to ensure the proper progress of a public gathering.

Article 13 was also of a nature to discourage the organizing of public gatherings. It provided for the organizer's obligation to ensure utilities necessary strictly in the event of large scale manifestations. Thus, according to article 13, the organizer would have been obligated: "a) to take all necessary measures so that the public gathering is carried out in the conditions provided for under article 2; b) to immediately interrupt the public gathering at the occurrence of any actions that are likely to breach the provisions of article 2 and to only resume it after order is restored, within the limit of the approved time interval; c) to ensure the protection of the participants and the environment; d) to ensure the use or the proper operation of the means of communication, public transportation and the public or private institutions". In fact, the quantum of the fines, set out by the draft Law, was also disproportionate in comparison to the seriousness of the facts and it risked discouraging the right to freely gather and to the freedom of speech and result in inhibiting some fundamental rights of the citizens. Last, but not least, Article 21, paragraph 3 of the Draft Law mentioned the scattering of all persons attending the rally "if the rally loses its peaceful and civilized nature". In fact, chasing away of all participants is an abusive measure, the optimum measure being to chase away the persons who generated the respective situation.

The legislative proposal for the amendment of the Law on Public Gatherings was withdrawn as a result of the human rights organizations' protests.

It is also noteworthy that certain provisions of the current law on public gatherings leaves room for abuses from authorities, a fact which was also certified by the abusive interventions of the Gendarmerie and the Police in the recent protests (details in the "Aggressions, threats, insults" Chapter hereof). Referring to the urban acts of violence in Athens and London, during the parliamentary debate on the draft for the amendment of Law 61/1991, Toader claimed that, even though over the last 20 years, Romania has not been confronted with any acts of violence on the streets, "we should better be careful not to get into the same troubles as some countries with a democratic tradition."

### **The new Civil Code comes into force**

On October 1, 2011, the new Civil Code came into force, and in January 2012, minister of Justice Cătălin Predoiu announced that the new civil procedure Code shall come into force on June 1, 2012<sup>413</sup>. Also at the beginning of 2012, the minister declared that he shall propose the implementing of the new penal and penal procedure code as of March 1, 2013<sup>414</sup>. As far as the new penal and civil Codes are concerned, we must reiterate the fact that, even though in 2009 the Government ordered the Parliament to adopt them by means of an emergency procedure, the coming into force of these normative acts was postponed for a long period, without the justice system being truly ready to implement them (for any details, review the previous FreeEx Report).

The new Civil Code contains detailed and restrictive provisions regarding the infringement of the right to private life, of the right to a personal image, reputation and dignity and brings in a form of prohibition of the

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<sup>413</sup> „Predoiu: The new penal and penal procedure codes shall come into force in 2013”, RomâniaLiberă.ro, January 5, 2012.

<sup>414</sup> „Predoiu: The new civil procedure Code comes into force on June 1”, Mediafax.ro, January 5, 2012.

publishing (article 253, paragraph 1: "The individual whose non-patrimonial rights have been infringed upon or threatened may, at any time, ask the court: (...) b) to cease such infringement and to prohibit it in the future, should it still continue"). At the end of this report, please find an Annex containing a selection of articles of the new civil Code, referring to the freedom of speech.

### **Legislative proposal for the minors' protection from indecent press**

In November 2011, deputies Mircia Giurgiu, Petru Movilă, Aledin Amet and Tudor Ciuhodaru submitted a "legislative proposal regarding the minors' protection against the press with an indecent content"<sup>415</sup>. This initiative proposed: restricted distribution, by means of a conditioned access system, of any publications that might affect the physical, mental or moral development of minors; the implementing of a warning sign in the shape of a red circle ("with a diameter of at least 4 cm, and inside it, the number 18 in white color") on the page of the publication with a content that is deemed indecent; blocking the websites that were in breach of the previous provisions. The legislative draft proposed that "in the press (all Romanian publications, distributed in print or by electronic means) all indecent content should be prohibited (the entirety of writings, photographs, drawings, recordings of any kind, which, by their significance, cause offence to modesty), as well as any other forms of indecent expression". The wording of the legislative draft was vague and left room for serious abuses, such as the censoring of website/publications. Its initiators also proposed sanctions from Lei 5,000 up to Lei 25,000 for any breach of the provisions.

An opinion of the Government, from February 2012, specified that "the scope of this legislative proposal is unclear and much too large, which might make it ineffective and difficult to apply"<sup>416</sup>. The document also remarked that "the provisions of this legislative initiative do not confer a significant additional protection of the minors' interests, as compared to the legal regime currently in force, but creates a legislative parallelism which shall cause confusion among the addressees of the obligations". In its conclusion, this opinion announced that "the Government does not support the passing of this legislative proposal". In April 2012, the legal Committee for appointments, discipline, immunities and validations conveyed a negative opinion with respect to this legislative initiative.

### **Amendment of Law 4/2008, against violence on sports arenas**

At the end of 2011, the Parliament passed a draft for the amendment of Law 4/2008 against violence on sports arenas, initiated by PD-L deputy Alin Trășculescu. The proposed amendments contain a series of measures that restrict several constitutional rights (free speech) or rightful principles (the presumption of innocence) and restrict the right to defense, and the stipulated sanctions are exaggerated in comparison to the social danger of the sanctioned actions. Thus, the law provides for punishments of imprisonment from 2 to 5 years for "The attempt to bring, the holding, the making or the use within the sports arena of handmade and entertainment objects of any class", without defining handmade and entertainment objects, which could be flags, scarves, balloons etc. The law also provides that the local gendarmerie and police should acknowledge and sanction the crimes provided for

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<sup>415</sup> „BP 900/ 2011. Legislative proposal regarding the minors' protection against the press with an indecent content”, Cdep.ro, November 16, 2011.

<sup>416</sup> „Opinion regarding the legislative proposal entitled <<Law regarding the minors' protection against the press with an indecent content >>”, Romanian Government, ApTI.ro, February 29, 2012.



under the law, and the acknowledgment of said sanctions does not suspend their enforcement. Said sanctions also include the prohibition of access on sports arenas and the obligation to appear at the police precinct on the date and at the time of the competitions. Also, the commencement of the criminal prosecution shall automatically entail the prohibition of access to sports competitions. Such a provision restricts the right to justice and breaches the presumption of innocence, while also being a measure that deprives people of their freedom.

#### **Conclusions:**

- **The authorities and the politicians from the entire political spectrum, continue to try to control and limit, by means of non-democratic rules, freedom of speech and access to information of public interest.**
- **The legislation continues to be interpreted and applied in a non-unitary manner.**
- **The new Civil Code came into force and contains a series of provisions that create difficulties for the freedom of the press.**
- **Important legislative initiatives are promoted without a prior public consulting. Even when there is a public consulting, the authorities often end up ignoring its conclusions and making decisions that disagree with the requests of their dialogue partners.**

#### **Recommendations for journalists and editors:**

- **Read the legislation that affects your professional activity (the penal and the civil Code, the Law on access to information of public interest, the audiovisual law, the United Media Branch Collective Employment Contract, the copyright Law etc.).**
- **It is necessary that journalists get involved in the monitoring of legislation and in debates with the public and the authorities.**
- **There must be consolidated reactions of the media community and of the human rights organizations, against the non-democratic legislative initiatives.**
- **Support the self-regulation initiatives, not the initiatives by regulation by means of a law of the press. Such a law is not necessary. The existing legislative framework covers almost all fields that must be regulated. A press law risks opening the way for abuse and intolerable restrictions with respect to freedom of speech.**

#### **Recommendations for authorities and politicians:**

- **Make the laws and the manner in which public funds are being spent transparent.**
- **Carry out programs for the training of magistrates with respect to the new penal and civil Codes, in order to avoid their random and non-unitary implementing.**
- **Comply with the conclusions of the public debates.**
- **Apply the legislation in a unitary manner and in accordance with the CEDO case law and the international treaties to which Romania is a signatory.**



## **ANNEX 1. SELECTION OF A FEW ARTICLES OF THE NEW PENAL CODE<sup>417</sup> WHICH CAN AFFECT FREEDOM OF SPEECH**

### **Infringement upon private life**

Art. 226. - (1) The unlawful infringement upon private life, by means of photographing, capturing or recording images, listening in with technical means or the audio recording of a person who is in a house, room or related out-house, or of a private conversation, is punishable by imprisonment from one to 6 months or by a fine.

(2) The unlawful disclosure, distribution or transmission of the sounds, conversations or images provided for under article (1), to another person or to the public, is punishable by imprisonment from 3 months to 2 years or by a fine.

(3) The criminal action is commenced when the aggrieved party files a prior complaint.

(4) The following are not considered criminal actions:

a) the action committed by a person who participated in that meeting with the aggrieved party, during which the sounds, conversations or images were recorded, provided that such recording justifies a legitimate interest;

b) if the aggrieved party explicitly acted with the intention to be seen or heard by the culprit;

c) if the culprit intercepts the committing of a crime or contributes to proving that a crime was committed;

d) if he/she intercepts actions of public interest, with significance for the life of the community, the disclosure of which has public advantages that are higher than the prejudice caused to the aggrieved party.

(5) The unlawful placement of technical audio or video recording means, for the purpose of performing the actions provided for under paragraph (1) and paragraph (2), is punishable by imprisonment from 1 to 5 years.

### **Compromising the interests of justice**

Art. 277. - (1) The unlawful disclosure of confidential information regarding the date, the time, the place, the manner or the means by which a piece of evidence is to be submitted, by a magistrate or by another official who came into possession of such information by virtue of his/her position, provided that such disclosure may result in the hindrance or the prevention of a criminal conviction, is punishable by imprisonment from 3 months to 2 years or by a fine.

(2) The unlawful disclosure of any evidence or official documents in a criminal case, before a decision not to sue is made, or before the case is decisively solved, by a public officer who came into possession of such information by virtue of his/her position, is punishable by imprisonment from one month to one year or by a fine.

(3) The unlawful disclosure of information pertaining to a penal case, by a witness, expert or interpreter, when such prohibition is imposed by the penal procedure law, is punishable by imprisonment from one month to one year or by a fine.

(4) The action by which overtly illegal acts or actions committed by the authorities in a penal case is not considered a crime.

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<sup>417</sup> Penal Code of July 17, 2009, published in the Official Gazette, Part I no. 510 of July 24, 2009. The date of coming into force is to be established by means of a special law.

### **Violating the secrecy of correspondence**

Art. 302. - (1) The unlawful opening, stealing, destruction or keeping of correspondence addressed to another person, as well as the unlawful disclosure of the contents of such correspondence, even if the same was sent open or was opened by mistake is punishable by imprisonment from 3 months to one year or by a fine.

(2) The unlawful interception of a conversation or a communication held via telephone or any electronic means of communication is punishable by imprisonment from 6 months to 3 years or by a fine.

(3) If the actions provided for under paragraph (1) and paragraph (2) were committed by a public officer who has the legal obligation to keep the professional secret and the confidentiality of the information to which he/she has access, the punishment is imprisonment from one to 5 years and the prohibition of certain rights.

(4) The unlawful disclosure, distribution, presentation or transmission to another person or to the public, of the contents of an intercepted conversation or communication, even in the event that the culprit was made part of it by mistake or by accident, is punishable by imprisonment from 3 months to 2 years or by a fine.

(5) The action committed under the following circumstances is not considered a crime:

- a) if the culprit intercepts the committing of a crime or contributes to proving that a crime has been committed;
- b) if he/she intercepts actions of public interest, with significance for the life of the community, the disclosure of which has public advantages that are higher than the prejudice caused to the aggrieved party.

(6) The criminal action is commenced when the aggrieved party files a prior complaint.

### **Disclosure of secret state information**

Art. 303. - (1) The unlawful disclosure of secret state information by the person who knows such information by way of his/her professional duties, if such disclosure affects the interests of one of the legal entities provided for under article 176, is punishable by imprisonment from 2 to 7 years and the prohibition of certain rights' exercise.

(2) The unlawful possession, outside the professional duties, of a document containing secret state information, if such possession may affect the activity of one of the legal entities provided for under article 176, is punishable by imprisonment from 3 months to 2 years or by a fine.

(3) The person in possession of a document containing state secret information, which document may affect the activity of one of the legal entities provided for under article 176, is not punishable if such person immediately turns the document in to the issuing body or institution.

### **The communication of false information**

Art. 404. – The communication or dissemination, by any means, of false news, data or information or forged documents, in awareness of the false nature of the same, if national security is threatened by such actions, are punishable by imprisonment from one to 5 years.

### **War propaganda**

Art. 405. - (1) The propaganda for a war of aggression, as well as the distribution of biased or fabricated news, for the purpose of causing a war of aggression, are punishable by imprisonment from 2 to 7 years and the prohibition of certain rights' exercise.

(2) The same punishment applies for the actions provided for under paragraph (1), committed for the purpose of causing a war of aggression against Romania or of a national armed conflict.

## **ANNEX 2. SELECTION OF CERTAIN ARTICLES FROM THE NEW CIVIL CODE, REFERRING TO THE FREEDOM OF SPEECH**

### **CHAPTER II**

#### **The respect for the human being and his/her inherent rights**

### **SECTION 3**

#### **The respect for private life and the dignity of the human being**

##### **The right to free speech**

**Art. 70. - (1)** Any person has the right to free speech.

**(2)** The exercise of said right may only be restricted in the cases and to the extents provided for under article 75.

##### **The right to private life**

**Art. 71. - (1)** Any person has the right to respect for his/her private life.

**(2)** No one may be subjected to any interference in his/her intimate, personal or family life or into his/her home, residence or correspondence, without his/her consent or without compliance with the limits provided for under article 75.

**(3)** It is also prohibited to use, in any manner, the correspondence, the manuscripts or other personal documents, as well as of the information pertaining to a person's private life, without such person's consent or without complying with the limits provided under article 75.

##### **The right to dignity**

**Art. 72. - (1)** Any person is entitled to respect for his/her dignity.

**(2)** Any infringement upon a person's honor and reputation, without such person's consent or without compliance with the limits provided for under article 75, is prohibited.

##### **The right to one's personal image**

**Art. 73. - (1)** Any person is entitled to the right to his/her personal image.

**(2)** In the exercise of the right to one's personal image, any person may prohibit or prevent the duplication, in any way, of his/her physical appearance or his/her voice or the use of such duplication, as the case may be. The provisions of article 75 remain applicable.

## **Infringements upon private life**

**Art. 74.** – Subject to the provisions of article 75, one may consider the following actions as infringements upon private life:

- a)** the unlawful breaking or remaining in a home or taking any object from such home, without the consent of its legal occupant;
- b)** the unlawful interception of a private conversation, carried out by any technical means, or the use of such interception, with full knowledge of the case;
- c)** the capturing or use of the image or voice of a person staying in a private space, without such person's consent;
- d)** the distribution of images representing interiors of a private space, without the consent of such space's legal occupant;
- e)** keeping private life under observation, by any means, apart from the cases expressly provided for under the law;
- f)** the broadcasting of news, debates, investigations or written or audiovisual feature reports regarding the intimate, personal or family life, without the targeted person's consent;
- g)** the broadcasting of materials containing images regarding a person undergoing treatment in medical assistance units, as well as of personal data regarding the health condition, diagnostic problems, prognosis, treatment, circumstances concerning the illness and various other matters, including the result of the autopsy, without the consent of the targeted person, and in the event that such person is dead, without the consent of the person's family or any entitled persons;
- h)** the use, in bad faith, of the name, image, voice or resemblance with another person;
- i)** the distribution or the use of the correspondence, manuscripts or other personal documents, including data regarding the domicile, residence, as well as the telephone numbers of a person or the members of his/her family, without the consent of the person to whom they belong or who has the right to communicate them.

## **Limitations**

**Art. 75. - (1)** Any prejudices that are permitted under the law or under the international conventions or agreements regarding human rights, to which Romania is a party, do not represent a breach of the rights provided for in this section.

**(2)** The exercise of the constitutional rights and freedoms in good faith and in compliance with the international agreements and conventions to which Romania is a party does not represent a breach of the rights provided for in this section.

## **Presumption of consent**

**Art. 76.** – When the very person who to whom an information or a material refers, provides such information or material to an individual or a legal entity which/whom he/she knows to carry out their activity in the public information field, the consent for the use of the same is presumed and no written agreement is necessary.

## Personal data processing

**Art. 77.** – Any processing of personal data, by automatic or non-automatic means, may only be carried out in the cases and under the conditions provided for under the special law.

## SECTION 4

### Respect is owed to a person after his/her death as well

#### Respect owed to the deceased person

**Art. 78.** – The deceased person is owed respect with respect to his/her memory, as well as his/her body.

#### Prohibition of any prejudice to the memory of the deceased person

**Art. 79.** – The memory of the deceased person is protected under the same conditions at the living person's image and reputation.

## TITLE V<sup>418</sup>

### Protection of non-patrimonial rights

#### Protection of human personality

**Art. 252.** – Any individual is entitled to the protection of the values closely related to the human being, such as life, physical integrity, dignity, the privacy of private life, scientific, artistic, literary or technical creation, as well as any other non-patrimonial rights.

#### Methods of defense

**Art. 253.** - **(1)** The individual whose non-patrimonial rights were prejudiced or threatened may ask the court at any time:

- a)** to prohibit the performance of the illicit act, if it is imminent;
- b)** to order its ceasing and prohibition in the future, if it is still ongoing;
- c)** to acknowledge the illicit nature of the committed act, if the disturbance it caused subsists.

**(2)** As an exception from the provisions of paragraph (1), in the event that a prejudice is caused as a result of the exercise of the right to free speech, the court may order only the measures provided for under paragraph (1) letters b) and c).

**(3)** Also, the person who suffered a breach of such rights may ask the court to order the culprit to perform any measures considered necessary by the court, in order to restore the breached right, such as:

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<sup>418</sup> In **CHAPTER VI of the Code**- Cessation of the legal entity

**a)** ordering the author to publish the sentencing decision, at his/her own cost;

**b)** any other necessary measures to stop the illicit act or to repair the prejudice caused.

**(4)** The prejudiced person may also demand compensation or a patrimonial remedy, as the case may be, for the prejudice, even of a non-patrimonial nature, that was caused to him/her, if the prejudice is imputable to the author of the prejudicial action. In such cases, the right to action is subject to the statute of limitations.

(...)

### **Provisional measures**

**Art. 255. - (1)** If the person who considers himself/herself prejudiced provides credible proof that his/her non-patrimonial rights represent the object of an illicit current or imminent action and that such action risks causing him/her a prejudice that is difficult to remedy, he/she may ask the court of law to take certain provisional measures.

**(2)** The court of law may especially rule upon the following:

**a)** prohibiting the breach or its temporary cessation;

**b)** taking the necessary measures in order to ensure the preservation of the evidence.

**(3)** In the case of the prejudice caused by means of the written or audiovisual press, the court of law may only decide to temporarily cease the prejudicial action if the prejudice caused to the plaintiff is serious, if the action is not overtly justified, according to article 75 and if the measure taken by the court does not appear to be disproportionate by comparison to the prejudice caused. The provisions of article 253 paragraph (2) remain applicable.

**(4)** The court solves the demand according to the provisions regarding the injunction, which apply accordingly. In the event that the demand is submitted before the action on the merits of the case is filed, the decision by means of which the provisional measure was ordered shall also set out the term within which the action on the merits of the case must be filed, subject to the rightful termination of said measure. The provisions of paragraph (6) apply.

**(5)** If the taken measures are likely to cause a prejudice to the opposite party, the court may order the plaintiff to give a collateral, in an amount set by the former, subject to the rightful termination of the ordered measure.

**(6)** The measures taken, according to this article, prior to the filing of the legal action for the protection of the breached non-patrimonial right, shall rightfully terminate if the plaintiff fails to notify the court within the term established by the latter, but no later than 30 days after the measures were taken.

**(7)** At the request of the interested party, the plaintiff is obligated to remedy the prejudice caused by the provisional measures taken, if the legal action on the merits is dismissed as ungrounded. Nevertheless, if the plaintiff was not in default, or had a minor default, the court, in accordance with the actual circumstances, may either refuse to order him/her to pay the compensation demanded by the opposite party, or order the decrease of such damages.

**(8)** If the opposite party does not demand damages, the court shall rule upon the release of the collateral, upon the plaintiff's request, by means of a resolution made with the parties' summoning. The request shall be judged according to the provisions regarding the injunction, which shall apply correspondingly. In the event that the defendant opposes the release of the collateral, the court shall set a term for the filing of the legal action on the



merits of the case, which term may not be longer than 30 days following the date when the resolution was made, subject to the rightful termination of the measure of blocking the amount deposited as collateral.

#### **The death of the non-patrimonial right's holder**

**Art. 256. - (1)** The action for restoring the breached non-patrimonial right may be continued or initiated, after the death of the prejudiced person, by the surviving spouse, by any of the direct relatives of the deceased, as well as by any of his/her collateral relatives, up to, and including fourth degree relatives.

**(2)** The action for restoring the integrity of a deceased person's memory may be initiated by the persons mentioned under paragraph (1).

#### **Protection of the legal entity's non-patrimonial rights**

**Art. 257. –** The provisions of this title shall also apply, by analogy, to the non-patrimonial rights of the legal entities.

### **CHAPTER VI**

#### **Obligations**

The law applicable to contractual obligations

**Art. 2.640. - (1)** The law that applies to contractual obligations is established according to the community law regulations.

**(2)** Any matters that do not fall under the community regulations shall be subject to the provisions of this civil Code, regarding the law applicable to the legal act, unless otherwise provided for under international conventions or special provisions.

The law applicable to extra-contractual obligations

**Art. 2.641. - (1)** The law that applies to extra-contractual obligations is established according to the community law regulations.

**(2)** Any matters that do not fall under the community regulations shall be subject to the law that governs the subject matter of the pre-existent legal relationship between the parties, unless otherwise provided for under international conventions or special provisions.

Liability for any prejudice caused to personality

**Art. 2.642. - (1)** The claims for remedy, relying upon a prejudice caused to private life or personality, including by means of the mass media or any other public means of information, are governed, at the choice of the prejudiced person, by:

- a)** the law of the state with jurisdiction over his/her regular residence;
- b)** the law of the state in which the prejudicial result occurred;
- c)** the law of the state in which the author of the damages has his/her regular residence or headquarters.

**(2)** The cases provided for under paragraph (1) letters a) and b) also carry the requirement that the author of the damages must have been reasonably expecting that the effects of the prejudice caused to the personality should occur in one of the two states.

**(3)** The right to response against the damages caused to personality is subject to the state in which the publication appeared or from where the show was broadcasted.

### **ANNEX 3.**

Documentul a fost adoptat în reuniunea Convenției Organizațiilor de Media din octombrie 2009<sup>419</sup>.

## **COD DEONTOLOGIC UNIC**

### **1. JURNALISTUL ȘI MASS-MEDIA**

1.1 Jurnalistul este persoana care se ocupă de colectarea, fotografierea, înregistrarea, redactarea, editarea sau publicarea de informații referitoare la evenimente locale, naționale, internaționale de interes public, cu scopul diseminării publice, câștigându-și traiul în proporție semnificativă din această activitate.

1.2. Jurnalistul își va exercita profesia în scopul servirii interesului public, conform propriei sale conștiințe și în acord cu principiile prevăzute de normele profesionale și prezentul Cod Deontologic.

1.3. În accepțiunea acestui cod, mass-media reprezintă totalitatea mijloacelor de informare în masă indiferent de platforma tehnologică, înființate și administrate în acest scop.

### **2. INTEGRITATE**

2.1. Jurnalistul este dator să semnaleze neglijența, injustiția și abuzul de orice fel.

2.2 Jurnalistul are dreptul de a fi informat, la angajare, asupra politicii editoriale a instituției mass media.

2.3. Jurnalistul are dreptul de a se opune cenzurii de orice fel.

2.4. Jurnalistul are dreptul la clauza de conștiință. El are libertatea de a refuza orice demers jurnalistic împotriva principiilor eticii jurnalistice sau a propriilor convingeri. Această libertate derivă din obligația jurnalistului de a informa publicul cu bună-credință.

2.5. Implicarea jurnalistului în orice negocieri privind vânzarea de spațiu publicitar sau atragerea de sponsorizări este interzisă.

### **3. CONFLICTE DE INTERESE**

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<sup>419</sup> [www.organizatiimedia.ro](http://www.organizatiimedia.ro)

3.1. Jurnalistul va evita să se afle într-o situație de conflict de interese. Instituțiile mass media vor asigura jurnalistului un mediu de lucru în care se practică o separare totală a activităților jurnalistice de cele economice.

3.2. Pentru a evita conflictele de interese, se recomandă ca jurnalistul să nu fie membru al vreunui partid politic.

3.3. Jurnalistului îi este interzis să fie informator sau ofițer acoperit al unui serviciu secret.

3.4. Jurnalistul trebuie să depună anual o declarație de interese la conducerea instituțiilor mass-media la care este angajat sau cu care colaborează. Se recomandă ca mass-media să facă publice online respectivele declarații. Jurnalistul poate decide unilateral să își facă publică declarația de interese pe site-ul unei organizații profesionale.

#### **4. CADOURI, SPONSORIZĂRI ȘI ALTE BENEFICII**

4.1. Folosirea statutului de jurnalist și a informațiilor obținute în exercitarea meseriei pentru a obține beneficii personale sau în favoarea unor terțe părți este inacceptabilă și constituie o gravă încălcare a normelor deontologice.

4.2. Jurnalistul nu va accepta cadouri în bani, în natură sau orice alte avantaje care îi sunt oferite pentru influențarea actului jurnalistic. Se permite acceptarea de materiale promoționale sau a altor obiecte cu valoare simbolică. Dacă un jurnalist participă la deplasări în interes de serviciu la care a fost invitat, va face publică modalitatea de finanțare a deplasării.

4.3. În exercitarea profesiei și în relațiile pe care le întreține cu autoritățile publice sau cu diverse persoane juridice de drept privat (societăți comerciale, fundații, asociații, partide, etc), jurnalistului îi sunt interzise înțelegeri care ar putea afecta imparțialitatea sau independența sa.

#### **5. CORECTITUDINE**

5.1. Jurnalistul care distorsionează intenționat informația, care face acuzații nefondate, plagiază, folosește fără drept fotografii sau înregistrări audio-video sau defăimează săvârșește abateri profesionale de maximă gravitate.

5.2. Jurnalistul va atribui citatele cu acuratețe. Citatele trebuie să fie exacte, iar în cazul citării parțiale, jurnalistul are obligația de a nu denatura mesajul persoanei citate.

5.3. În spiritul corectei informări a publicului, în cazul autorilor de produse jurnalistice care nu dețin statutul de jurnaliști profesioniști, se impune precizarea statutului acestora.

5.4. Este obligatorie separarea clară a produselor jurnalistice de cele realizate în scop publicitar. Materialele în scop publicitar vor fi marcate distinct și vor fi prezentate astfel încât să nu poată fi confundate cu cele jurnalistice.

#### **6. VERIFICAREA INFORMAȚIILOR**

6.1. Jurnalistul va face demersuri rezonabile pentru a verifica informațiile înainte de a le publica. Informațiile false sau cele despre care jurnalistul are motive temeinice să creadă că sunt false nu vor fi publicate.

#### **7. RECTIFICAREA ERORILOR**

7.1. Jurnalistul are datoria de a corecta cu promptitudine orice eroare semnificativă apărută în materialele publicate.

7.2. Dreptul la replică se acordă atunci când cererea este apreciată ca fiind îndreptățită și rezonabilă. Dreptul la replică se publică în condiții similare cu materialul jurnalistic vizat, în cel mai scurt timp posibil. Dreptul la replică poate fi solicitat în termen de 30 de zile calendaristice de la apariția produsului jurnalistic.

## **8. SEPARAREA FAPTELOR DE OPINII**

8.1. În relatarea faptelor și a opiniilor, jurnalistul va acționa cu bună-credință.

8.2. Jurnalistul nu are dreptul să prezinte opinii drept fapte. Jurnalistul va face demersuri rezonabile pentru a separa faptele de opinii.

8.3. Jurnalistul trebuie să exprime opinii pe o bază factuală.

## **9. VIAȚA PRIVATĂ**

9.1. Jurnalistul este dator să respecte dreptul la viața privată și demnitatea persoanelor (inclusiv aspectele care țin de familie, domiciliu și corespondență).

9.2. Amestecul în viața privată este permis numai atunci când interesul public prevalează în fața protecției imaginii persoanei. În astfel de cazuri, îi este permis jurnalistului să prezinte public fapte și informații care privesc viața privată.

## **10. PROTECȚIA VICTIMELOR**

10.1. Identitatea victimelor accidentelor, calamităților, infracțiunilor, cu precădere cele ale agresiunilor sexuale, nu trebuie să fie dezvăluită, cu excepția situației în care există acordul acestora sau al familiei (când persoana nu este în măsură să-și dea acordul) sau când prevalează interesul public. De același regim de protecție a identității beneficiază și persoanele defavorizate (bolnavi, persoane cu dizabilități, refugiați, etc.).

## **11. PROTECȚIA MINORILOR**

11.1. Jurnalistul va proteja identitatea minorilor implicați în evenimente cu conotație negativă (accidente, infracțiuni, dispute familiale, sinucideri, etc), inclusiv ca martori. În acest sens, înregistrările video și fotografiile vor fi modificate pentru protejarea identității minorilor.

11.2. Fac excepție situațiile în care interesul public cere ca minorii să fie identificați. De asemenea, fac excepție cazurile în care jurnalistul acționează, cu acordul părinților sau tutorilor, în interesul superior al minorului.

## **12. DETALIEREA ELEMENTELOR MORBIDE**

12.1. Jurnalistul va evita descrierea detaliată de tehnici și metode infracționale, tehnici suicidale, vicii și nu va utiliza imagini violente și alte elemente morbide. De asemenea, jurnalistul va evita să provoace, să promoveze și să dezvolte subiecte de presă pe marginea unor evenimente morbide. Infracțiunile, crimele, terorismul, precum și alte activități crude și inumane nu trebuie încurajate sau prezentate într-un mod pozitiv.

### **13. DISCRIMINAREA**

13.1. Jurnalistul este dator să nu discrimineze și să nu instige la ură și violență. Se vor menționa rasa, naționalitatea sau apartenența la o anumită comunitate (religioasă, etnică, lingvistică, sexuală, etc) numai în cazurile în care informația este relevantă în cadrul subiectului tratat.

### **14. PREZUMȚIA DE NEVINOVĂȚIE**

14.1. Jurnalistul este dator să respecte prezumția de nevinovăție, astfel încât nici un individ nu va fi prezentat drept făptuitor până când o instanță juridică nu se va fi pronunțat, printr-o decizie definitivă și irevocabilă.

14.2. Nu se vor aduce acuzații fără să se ofere posibilitatea celui învinuit să își exprime punctul de vedere. În cazul unor păreri divergente, jurnalistul va da publicității punctele de vedere ale tuturor părților implicate.

### **15. PROTECȚIA SURSELOR**

15.1. Jurnalistul are obligația de a păstra confidențialitatea surselor în cazul în care acestea solicită acest lucru, dar și în cazul în care dezvăluirea identității surselor le poate pune în pericol viața, integritatea fizică și psihică sau locul de muncă.

15.2. Protecția secretului profesional și a confidențialității surselor este în egală măsură un drept și o obligație al jurnalistului.

### **16. TEHNICI SPECIALE DE COLECTARE A INFORMAȚIILOR**

16.1. Ca regulă generală, jurnalistul va obține informații în mod deschis și transparent. Folosirea tehnicilor speciale de investigație jurnalistică este justificată atunci când există un interes public și când informațiile nu pot fi obținute prin alte mijloace.

16.2. Utilizarea tehnicilor speciale de investigație trebuie să fie menționată explicit în momentul publicării informațiilor.