

**Media Monitoring Agency**  
- Member of Reporters without Borders network -

## **FreeEx Program**

# **Press Freedom in Romania 2005**

- Released in March 2006 -

**Media  
Monitoring  
Agency**



This report was drafted within the Freedom of Expression - FreeEx Program of the Media Monitoring Agency - Academia Cațavencu (MMA). The FreeEx Program started in August 1999 with a view to protect and promote the right to free speech. The FreeEx team publishes on annual basis reports on the situation of press freedom in Romania.

This project was funded, in part, through a U.S. Embassy grant. The opinions, findings and conclusions or recommendations expressed herein are those of the Author(s) and do not necessarily reflect those of the Department of State

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## CHAPTER I. General framework

### 1. General Overview

- *Hostile attitudes of politicians and authorities towards media persist at the local level*
- *Media concentration tendency*
- *The Berlusconiization process of media enhanced – media is monopolized by politicians and businessmen and used for personal business purposes*
- *Lack of transparency with respect to media ownership and sources of revenue*
- *Lack of political will to reform the public radio and television*
- *Libel laws are still criminal laws*
- *Need for more professional media and media ethics enforcement. A debate on professional topics has begun*

*Romanian media market is currently undergoing a process of restructuring and consolidation, mainly due to the new business and political contexts that developed after the 2004 elections and in the EU accession perspective. There is hope that the current process will lead towards a healthier business environment.*

Year 2005 brought a new political regime in Romania. This has resulted in some changes in the media market, part of them positive. There is a visible decrease of political pressures against media outlets, especially at the national level and on the public broadcasting institutions. The present Government does not display the same obsession for its own image as the previous one and there are almost no signs of attempts to control the media from its part. On the contrary, it has attempted to eliminate two of the major instruments used by the former government to 'buy' the media: state advertising and rescheduling of fiscal debts of media companies.

Media monitoring analysis<sup>1</sup> show that the news bulletins of televisions are more critical towards the political power than under the previous government. Public television is regaining its credibility, providing balanced and good quality information to the public.

Unfortunately, at the local level there are several reports from journalists that the situation has not changed much. In some areas, the only thing that has changed is that the people or the political color of the administration are different. Practices that consolidated during the previous administration are still employed by many local politicians or authorities, in total disregard of the media's role in the society.

The decrease of top political pressure does not necessarily mean that press freedom is no longer a problem in Romania. International reports and many of the journalists mention a lack of editorial independence of the editorial management and of the journalists themselves. "In the quest for audiences, profit, and political influence,

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<sup>1</sup> Media Monitoring Agency reports – [www.mma.ro](http://www.mma.ro)

many media outlets sacrifice professional and ethical standards and even editorial freedom”<sup>2</sup>.

As the political pressure decreased and was no longer perceived as a major issue, there has been an increased focus on the internal problems of the Romanian media. These problems are related to the media owners and editors’ low interest for professional issues, the journalists’ low level of professionalism and to the lack of transparency of media ownership and of media sources of revenue.

As mentioned above, one of the biggest problems confronted by the Romanian media is the process by which businessmen and politicians take control of media institutions and use it as instruments to get political or business advantages, to the prejudice of the public’s right to be correctly informed. In a way, freedom of the media means now freedom of media owner’s to use the media for their own interests. This becomes more and more dangerous if we take into account the process of media concentration that is undergoing at the moment.

Politicians and businessmen are still aggressing journalists. Cameramen and photo-reporters have been in 2005 the most affected ones. In some cases the aggressions took place in the presence of passive policemen. In Romania, cameramen and photographers are usually held responsible by media institutions for preserving the integrity of the equipment.

One positive sign is the fact that direct and brutal attacks on journalists have diminished comparing to the previous years. One case involved a serious aggression, a cameraman suffering severe skull and nose injuries while filming a football supporters gathering.

Denial of access to public information by the public administrations and other public institutions at all levels is one of the most encountered violations of the journalists’ rights.

Mentalities need to change and more time has to pass for the authorities to understand its spirit and apply it according to its provisions. We have registered a significant number of cases when authorities refused to grant access to public information or lift journalists’ accreditations in total disregard to the law.

Journalists and media outlets are still harassed by being dragged into courts for criminal defamation. However, in the 2005 only one penal decision against journalists or media outlets was identified by MMA.

A reformist Minister of Justice (well-known human rights lawyer and defender of the freedom of speech) drafted a new penal code, which put forward the decriminalization of insult and calumny as well as of other freedom of speech related offences. Nevertheless, the Minister seems not to have enough political support in this endeavor.

One black spot remains the situation of the public radio and television. Although there are signs that the political pressure is decreasing, the political parties are not showing enough will to free public radio and television from any political influence. During the 2004 elections campaign, the DA Alliance promised to reform the public broadcasting, but it has failed so far to produce a new law to regulate it, even though several projects have been under debate last year.

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<sup>2</sup> *Media: The business of ethics, the ethics of business*, SEENPM 2005, [www.seenpm.org](http://www.seenpm.org)

## 2. Political and economic pressure

**Local politicians** still pressure journalists and media outlets using the same methods developed by the previous administration, such as denial of access to public information, use of public money to buy the silence of the press, harassment of inconvenient media outlets and journalists through the use of public institutions.

Local journalist Ioan Romeo Rosiiianu made several TV reportages at local TV station *Canal 7+* investigating the way in which public money were spent by the Baia Mare City Hall. Soon after this, the TV station signed a contract with the City Hall for about 1000\$/month for hosting a TV show to inform the citizens about the activities of the local administration. The show replaced the show of Rosiiianu. On the 8<sup>th</sup> and 11<sup>th</sup> of February, the journalist made a request under the Freedom of Information law to the City Hall asking information about some land transactions made by the City Hall and other issues related to public funds expenditure.

On February 13, Rosiiianu was invited to speak about these requests at another local cable television, *Club TV*. The owner of *TV Canal 7+* asked Rosiiianu not to participate in that show threatening to fire him. He also blackmailed *Club TV* not to air the show threatening that he would stop the airing of the show. *TV Canal7+* is the cable distributor in the region. *Club TV* decided not to air the show.

On February 14, IR Rosiiianu was fired by *TV Canal7+* and later he sued the channel for abusive dismissal. He won the case with a definitive sentence and received 500 million lei (15,000 euros) as financial damages, 100 million lei as moral damages and 8.2 million lei for trial costs.

On March the 3<sup>rd</sup>, the National Audio-visual Council (NAC), the regulating body in the broadcasting sector, considered this as "a case susceptible of censorship" in a response to an address sent by Rosiiianu. NAC also asked all TV stations to end this sort of sponsorship contracts with public authorities.

The journalist sued Mayor Cristian Anghel, too, for not providing the information he requested under the Freedom of Information law. He won the trial, but the mayor continued to refuse to offer the information. Failing to make public the information, Mayor Cristian Anghel was placed under criminal investigation by the Public Prosecutors for abuse in performing a public duty on January 13, 2006.

On January 26 2006, IR Rosiiianu won another case against the mayor and the TV Canal7+. He accused them of censorship and challenged the advertising contract between the City Hall and the TV station. The Court compelled the Mayor and the broadcaster to pay Rosiiianu 500 million lei as moral damages and 10 million lei as trial costs.

A recent report of the Competition Council <sup>3</sup> mentions that "one of the visible trends in the recent years has been the concentration in the media field". The document talks as well about the accumulation of debts to the Government (in unpaid taxes) the important stake of government advertising on the market, and the corruption that exists in the media.

The previous Government granted **state advertising** in a non-transparent and preferential manner. This advertising coming from public institutions and state-

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<sup>3</sup> *The List of Sectors Essential to the Romanian Economy from the Competition Point of View* – published by the Competition Council ([www.competition.ro](http://www.competition.ro)), 2005

owned companies was one of the most powerful instruments for controlling the media.

Two media outlets suspected of being subsidized with public money by the previous government disappeared from the market at the beginning of 2005 after the new government suspended public advertising grants. One of these outlets is local television MTC – Constanta, (Maritime Training Centre Television) established in 2001 as a company with 100% state capital through a governmental decision and financed in 2002 with a 6 million euros grant from the Ministry of Transport. Large part of this sum actually ended up in the accounts of Prima TV, a private national television which was known for its pro-PSD agenda. MTC-TV came into financial collapse at the beginning of 2005 when the new administration stopped its funding. Another case is national daily Independent, a newspaper known for its pro-PSD agenda, which received huge amounts of public advertising between 2002 and 2004 although it had a very low circulation. The newspaper stopped its activities in early 2005 only to be re-launched at the end of the year as a weekly magazine.

The new administration proved to have the political will to change this situation and undertook concrete steps to eliminate these dysfunctions. Tariceanu administration worked out together with representatives of media institutions and media NGOs a new set of regulations regarding the distribution of public advertising in order to make it more transparent and to set criteria for its distribution. The new regulations materialized in the modification of the Public Procurement Law in May, in a new web site dedicated to public advertising and in a Guide of Good Practices dedicated to public institutions or companies that distribute public advertising. Still, there is a lot to be done to effectively implement the new regulations.

Another mechanism which distorted the free competition on the media market was the authorities' tolerance towards the media companies that have accumulated huge debts to the State during the past 5 years.

In early February, the Ministry of Finance (MF) summoned all companies including media institutions to pay their **financial debts to the state**. The major media companies that were the target of the MF were Intact (owner of Antena 1 TV), SBS Broadcasting (Prima TV) and Media Pro Studios (Pro TV studios).

Still, Romanian politicians find new ways to transfer money to the media. The ruling liberal party has organized at the end of the year in several regions of the country 'contests for journalists', awarding financial incentives to local journalists for 'best published articles'. Such contests were reported by local journalists in counties like Targu Mures, Giurgiu, Ramnicu Valcea.

The **public broadcasting** has been under pressure from the political power since its beginnings, with a peak during 2002-2004. Journalists from the two institutions publicly protested during the last years against the editorial pressures and the political subjugation. Media organizations have supported these claims and asked for the resignation of the two institutions' management and for a new law on public broadcasting. This year there are signs<sup>4</sup> that the political pressure is decreasing although political parties are still not showing enough will to free public radio and

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<sup>4</sup> Monitoring reports of the Media Monitoring Agency ([www.mma.ro](http://www.mma.ro)) and of the National Council of Audiovisual ([www.cna.ro](http://www.cna.ro));

television from any political influence. On June 2005, the Parliament dismissed the two Boards of Management and soon new boards were appointed under the old law. Different parliamentarians submitted several draft laws, but none of them has passed so far even though the reform of public broadcasting was one of the electoral promises of the new government.

A recent research<sup>5</sup> brought to light the **pressures exerted by advertisers** to influence the editorial content. It is an issue with a high potential to disturb the editorial independence and it seriously undermines the role of the media. Some media institutions admitted having given up in front of these pressures. One of the causes of this situation can be the fact that the advertising market is rather small and does not provide enough resources to sustain such an overcrowded market.

National financial daily *Bursa* and news television *Realitatea TV* complained about the pressures exerted by cars distributor Porsche not to make public an accident that took place during a drive test organized by the company for one of its vehicles on the 8<sup>th</sup> of April. The drive test consisted of a long journey around the country and involved many participants. Unfortunately, one of the participants to the drive test caused a car accident that resulted in the death of a person.

National daily *Ziua* published in January 2006 an investigation about the controversial privatization of the state company Loteria Romana (The Romanian Lottery). The article mentioned the new contract signed between Loteria Romana and *Antena 1* for the transmission of the lottery shows. Therefore, Loteria Romana sent a letter to *Ziua* asking the newspaper to cancel the publishing of the advertisements for the company in the newspaper, arguing that *Ziua* published "disparaging information" about Loteria Romana without giving it the opportunity to express its own point of view. *Ziua* claims it made efforts to get an opinion from the top management of Loteria Romana before publishing the article, but it received no answer from them.

### **3. Media Concentration vs. Media Independence**

The Romanian media market continues its trend towards expansion and new outlets are emerging every year on all fields – print, radio, television, and internet. Yet, this whole process raises many doubts as the advertising market is estimated to be around 250 million euros in 2005<sup>6</sup> and it cannot support such an overcrowded market under normal business circumstances. This raises the issue of the sources of finance of these media outlets and the real reasons behind their presence on the market.

At the same time, most of the new outlets which emerged during the last years belong to the same media conglomerates and there is a clear tendency towards market concentration at the moment. A report of the Competition Council confirms the tendency towards concentration.<sup>7</sup>

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<sup>5</sup> *Media: The business of ethics, the ethics of business*, SEENPM 2005, [www.seenpm.org](http://www.seenpm.org)

<sup>6</sup> [www.hotnews.ro](http://www.hotnews.ro), Vlad Telibasa, Adrian Vasilache, 31 October 2005

<sup>7</sup> *The List of Sectors Essential to the Romanian Economy from the Competition Point of View* – published by the Competition Council ([www.competition.ro](http://www.competition.ro)), 2005

**Multinational media corporations'** presence has consolidated in the recent years and they dominate most of the markets – publications (Ringier), radio and television (CME and CBS) and radio (Lagardere). Nevertheless, powerful national media groups are strong competitors on the market through the numerous media they own and control through intricate networks of companies.

**Three influential businessmen**, one directly involved in politics, control a number of media outlets which, although not legally organized as 'holdings', are closely tied within certain conglomerates. All of them control national and local daily newspapers, national and local TV and radio stations, weeklies and magazines. One of the groups has interests in the largest news agency as well.

Businessman and politician Dan Voiculescu is behind numerous media institutions, controlled through an intricate net of companies: TV stations Antena1 and Antena3, Radio Romantic, national dailies *Jurnalul National* and *Gazeta Sporturilor* and financial weekly *Saptamana Financiara*.

Dan Voiculescu is also the leader of the Conservative Party (PC, the former Romanian Humanist Party PUR), a party with low popularity, which made it to the Parliament through political alliances with the Social Democratic Party (PSD). After the 2004 elections, it changed sides and became a partner in the current governmental coalition. PC has often been accused of using its media conglomerate to get political advantages. The results of several media monitoring analysis<sup>8</sup> clearly prove how Antena1 followed the different political agendas of the PC.

A new competitor has strongly come up on the media market in 2004. Liviu Luca, Union leader at PETROM SA, took control of major media outlets through different entities. One of these entities is the Federation of Unions from PETROM SA (FSLI). PETROM is the domestic oil company privatized in 2004 to Austrian OMV and the largest oil company in Central Europe. FSLI owns 25% of Petrom Service, a company which originates from PETROM SA, providing maintenance services to PETROM equipments and drill facilities.

As administrator of Petrom Service, FSLI and several other companies, Liviu Luca has been involved in several media deals during the last two years, taking control of *Realitatea TV*, *Radio Total*, of national dailies *Ziua*, *Averea* and *Gardianul*, and of the local daily *Telegraful de Prahova*.

There were suspicions that businessman Sorin Ovidiu Vantu was behind some of these media institutions through several anonymous companies from Cyprus and Switzerland. Vantu is officially "financial advisor" for Liviu Luca's companies. In 2000 Vantu was involved in the biggest financial scam in Romania, when his investment fund left hundreds of thousands of people broke. Some of these suspicions vanished on the 6<sup>th</sup> of February 2006, when Vantu publicly admitted in a press release that he has been the real owner of *Realitatea TV* since 2004, a news TV channel with significant audience in the urban areas. His announcement came after the National Audio-visual Council summoned several TV stations in February 2006 to reveal their ownership.

Third major player on the market is the group managed by Adrian Sarbu. It comprises *Pro TV*, *Pro Cinema*, *Acasa Tv* and *Pro Tv International* (owned by Central Media Enterprises 85% and Adrian Sarbu 10%); *Pro FM*, *Info Pro* and *Pro Clasic*,

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<sup>8</sup> Media Monitoring Agency, [www.mma.ro](http://www.mma.ro);

owned by Adrian Sarbu 40%, Rootland Trading Limited Cyprus 40% and CME – 20%. In 2005 Sarbu sold CME 5% of his shares for 20 million dollars<sup>9</sup>.

Adrian Sarbu also manages Publimedia, a company which publishes a network of local newspapers and weeklies, business daily *Ziarul Financiar*, *Business Magazine* and a number of magazines. Publimedia is owned by Treadolo Investment NV from Antyles, a company administered by ING Trust. Treadolo also controls *Mediafax*, the biggest and most important national news agency.

*Pro TV* was often accused of a pro PSD (Social Democratic Party) bias in the previous years. Many voices pointed out the debts to the state budget cumulated by the different companies controlled by Sarbu along the years and the subsequent exemptions granted by PSD Government as the reason for its bias. After the elections and the payments of the debts, the *Pro TV* news stories are more balanced, according to monitoring reports of the Media Monitoring Agency and of the National Council of Audiovisual.

A new group that has been consolidating recently is the one formed around the political satire weekly magazine *Academia Catavencu* owned by Sorin Marin, a local businessman and by the journalists who set up the newspaper in 1991. In 2004, it took control of daily *Cotidianul* and it launched *Radio Guerilla*. The group owns as well weekly *B24Fun* and several monthly magazines. Sorin Marin is placed under criminal investigation in the Rompetrol case.

Swedish group *SBS Broadcasting* made strong investments in the spring of 2005, acquiring *Prima TV*, *Radio Kiss* and *Radio Star*. The total value of the deal was 30.3 million euros, out of which 7.8 million for *Prima TV* and 22.5 million for the radio stations.

During the last years, owners used media institutions to get political and financial advantages. *“As advertising or sales cannot ensure profitability for many media institutions, they do not actually function as lucrative entities, but rather as means of influence for political and economic groups”*<sup>10</sup>.

**Conflicts between media institutions** are often a reflection of the business or political battles between their owners. The most relevant example in this sense is the conflict between the media outlets controlled by Dan Voiculescu and those controlled by Liviu Luca.

The business battle between Voiculescu and Luca for the control of the 8% of PETROM SA shares held by PETROM's employees was conducted partly on the media battlefield. Both businesspersons have used the media institutions they control to attack the competitor and to promote the owner's business interests.

President Traian Basescu signaled in August the strong presence of the economic groups of interests in the media. He claimed that a well-known journalist, Sorin Rosca Stanescu, director of national daily *Ziua* and coordinator of national dailies *Gardianul* and *Averea* threatened to attack him in the newspapers he runs, during a phone conversation which took place the same day when prominent businessman Dinu Patriciu was held for investigation by the prosecutors. Patriciu is the former

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<sup>9</sup> *Capital* weekly, Petre Barbu/Petrisor Obae, 11.08.2005

<sup>10</sup> *The List of Sectors Essential to the Romanian Economy from the Competition Point of View* – published by the Competition Council ([www.competition.ro](http://www.competition.ro)), 2005

owner of *Ziua* and the owner of Rompetrol, the second largest oil company in Romania.

Last year prompted a debate about **the transparency of media ownership and of media sources of revenue**. Few media institutions disclose their ownership and sources of revenue, few of them publish financial reports, except for those required by law<sup>11</sup>.

According to a report regarding the structures of ownership in the media published at the end of 2004<sup>12</sup>, “(...) the data provided by the Registry of Commerce only reveals the top of the iceberg while the real owners can take refuge in tax heavens.”

Steps forward have been made during the last 18 months, with the intervention of the National Audio-visual Council which summoned broadcasters to reveal their ownership structures. At the moment, most of the persons behind radio and TV stations are known except for the cases when off-shore companies are shareholders. Such practices are yet to be established in the print media sector, preferably as a self regulative measure initiative. There are important national newspapers whose ownership is still unknown, being registered in off-shore areas.

There are no specific laws or self-regulatory documents regulating the transparency of the media’s sources of finance, although there is an article in the Constitution stating, “By law, it is possible to compel the media to disclose their financial resources”. Legislation does not require media institutions to publish their sources of income or revenue except for those required by the fiscal authorities. These documents do not provide detailed information about the sources of revenue.

The crisis that took place in March 2005 at *Adevarul*, one of the most influential national dailies, is relevant for large parts of the Romanian media market. It exposed the problems related to the financing of media outlets, the connections between media owners and high level politicians, the use of state advertising to buy media silence and the lack of separation between the editorial and commercial departments.

The scandal erupted on March 21, when the major shareholder, Anna Maria Tinu, decided to change the composition of the Administrative Board, dismissing four members who were also members of the Executive Board. They were Cristian Tudor Popescu, the editor in chief and his three deputies, Adrian Ursu, Bogdan Chireac, and Lelia Munteanu. A.M. Tinu argued that separation of the editorial and the management activities was the main reason behind this decision. The four journalists resigned the same day and on March 22 other 81 members of the staff decided to quit the newspaper and to form another newspaper - *Gandul*, run by C.T. Popescu. *Gandul* was released on the 3<sup>rd</sup> of May. Ana Maria Tinu is the daughter and the heiress of Dumitru Tinu, the former Director of *Adevarul*, who died in 2003 in a car accident.

The incident revealed new evidence and clarified many of the suspicions about the sources of financing and the advertising practices of *Adevarul*.

In a column published on March 21, C.T. Popescu accused Viorel Hrebenciuc, a top PSD politician, of being the person behind the whole affair. Popescu wrote about the interventions of Hrebenciuc to influence the editorial content of the newspaper during the last three years, especially during 2004, an elections year. According to the

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<sup>11</sup> *Media: The business of ethics, the ethics of business*, SEENPM 2005, [www.seenpm.org](http://www.seenpm.org)

<sup>12</sup> “The structures of ownership and their influence on media independence and pluralism”, SEENPM, 2004;

column, Hrebenciuc's problem was that "the whole PSD knew that *Adevarul* is Hrebenciuc's paper". Now, Hrebenciuc was making another attempt to take control of the newspaper and turn it into a pro-PSD platform, through the influence he had over Tinu's family.

*Hrebenciuc* was a close friend of Dumitru Tinu and there are allegations that he financed Tinu in 2002 with 1.7 million dollars to buy 83% of *Adevarul's* shares.

*Adevarul* was known for its feeble of criticism towards the prominent PSD leaders and for receiving large amounts of public state advertising.

The case also brought positive changes to the media landscape as the team who quit *Adevarul* and formed *Gandul* adopted a policy of transparency regarding its ownership structure, publishing the shareholders in its pages. *Gandul* is the first Romanian newspaper which reveals its ownership.

#### 4. Ethics

According to a recent report<sup>13</sup>, Romanian media shows little concern for ethical and professional issues. There is little public debate about these issues, most of it conducted at the academic level or among media associations or media watch dogs, while major media outlets display little concern regarding such issues. Codes of Ethics and self-control organisms are a rare presence in the Romanian media.

Yet, 2005 was the first year when ethical and professional issues became the subject of public debates. The best-known case is *Evenimentul Zilei* versus Monica Macovei. In its June 22<sup>nd</sup> edition, the newspaper published an article accusing Monica Macovei, the Justice Minister, of getting drunk and breaking glasses during a dinner at the National Lawyers Congress. The author of the article quoted "witnesses under the protection of anonymity" as the source for the information therein. At the same time, witnesses who revealed their identities denied the claims of the article. The Romanian Press Club strongly condemned the article, considering that *Evenimentul Zilei* committed a serious infringement of journalism ethics. The newspaper decided to undertake an internal investigation to clarify the circumstances in which the article was published. On August 30, the conclusions of this investigation stated that the article should have never been published, that serious errors had been committed and the responsibility rests with the editor in chief. The newspaper presented its apologies to Monica Macovei and to its readers.

One case of **corruption and blackmail** in the media had emerged in 2005. Five employees of local daily *Ziua de Iasi* are currently under trial for blackmail and complicity to blackmail, after 11 politicians and businesspersons from Iasi filed criminal complaints. They complained about the pressures made by the management of *Ziua de Iasi* to sign advertising contracts, under the threat of publishing compromising articles about their businesses or families. Using this method, the newspaper collected around 3 billion lei (100,000 euros) between 1999 and 2004. Local journalists from Iasi confirmed the accusations brought against *Ziua de Iasi*.

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<sup>13</sup> "Media: The business of ethics, the ethics of business", SEENPM 2005, [www.seenpm.org](http://www.seenpm.org)

Many media outlets, especially local ones, maintain an indistinct separation between the editorial and the commercial departments.

*Adevarul* did not practice a **clear separation between the editorial and commercial departments**, journalists acting as salesmen. CT Popescu who is also the President of the Romanian Press Club has publicly declared that this practice is acceptable taking into account Romania's economic context.

Many media outlets continue to publish **hidden advertising or advertorials**. The web sites of national dailies *Ziua* and *Gardianul* offer information about the different tariffs practiced for regular advertising and for unmarked advertising (advertorials). The manager of both newspapers is Sorin Rosca Stanescu, one of the members of the Council of Honor of the Romanian Press Club (RPC). RPC has never publicly condemned the practice of unmarked advertising.

On September 26, RPC proposed a document **to regulate the professional relationship between media owners, editors and journalists**. RPC invited other media NGOs to discuss this proposal. The document confines the owner's area of intervention to the setting of the editorial policy, requires owners to guarantee journalists' freedom of expression and the clause of conscience, asks media institutions to be transparent regarding their ownership and sources of finance, etc. The document has not been adopted yet by the RPC or other media organizations.

## **5. Legislation**

**The Penal Code still criminalizes insult and calumny.** During the last years, the Justice Ministry proposed several new projects for a new Penal Code. All of them decriminalize insult, but only the one proposed by the current Justice Minister decriminalizes calumny as well.

This new project decriminalizes not only insult and calumny but as well other Penal Code articles related to defamation of state symbols, nation, etc. Yet, there are small chances that the project will be passed by the Parliament as the entire political class shows little will to decriminalize calumny. The debates that took place in the Parliament on the previous projects showed that there is a strong political resistance against decriminalization of calumny. One good sign was that at the end on 2005, the Juridical Commission of the Senate accepted to decriminalize both insult and calumny in the media. This first positive step does not guarantee that the project will be passed by the Senate or that there will be no backward steps at the vote in the Chamber of Deputies.

Many journalists and media institutions are harassed by being dragged into Courts for hundreds of trials. In practice, in case of a civil proceeding, the plaintiffs have to pay a percentage of the damages they claim. The penal code allows them to file both a penal and a civil complaint, and in this case there is no need for paying such a percentage. This encourages claimants to sue both under the penal and the civil code.

Journalists are still getting criminal sentences for calumny. At the same time, when cases are judged under the civil law, it often happens that journalists or media

institutions have to pay huge amounts to plaintiffs as civil or moral damages. These are strong instruments of pressure used against the media and with a high potential to generate self-censorship.

Between 2002 and 2004, 78 journalists got definitive criminal convictions for calumny and insult, according to a statistic provided by the Ministry of Justice.

The **freedom of information law**, which grants access to public information, was adopted in 2001 but there is a lot to be done before authorities understand its spirit and enforce it according to its provisions. There are still cases when authorities refuse to grant access to public information or when authorities suspend journalists' accreditations in complete disregard of the law.

Nongovernmental organization Pro Democracy conducted a research in the county of Brasov asking 38 public institutions for public information for a period of four months. The report concluded that "four years after its passing, the law is as ignored and unknown as it was when being voted."

The National Roads Company, under the subordination of the Ministry of Transportation, classified all public procurement contracts signed in 2005 by the institution, invoking a clause of confidentiality. The Prime Minister publicly condemned such practices, declaring that "contracts of public procurement should be transparent".

One of the main issues in 2005 has been the **law of public broadcasting**. It has been a consensus that the current law should be amended in order to provide more independence for the public radio and television, to hold the two institutions more accountable to the public and to better define their mandate. During the last years, public radio and television were widely accused of obedience to the former government. Several media organizations repeatedly asked for the resignation of the Boards of Management. After the elections, media NGOs maintained the same position, but considered that the main priority was the modification of legislation before the appointment of new Boards.

Therefore, media organizations, journalists and management representatives of the public radio and television and union members initiated a working group which drafted a proposal stating the principles which should be at the basis of the new law. The document was released at the end of February and sent to the Ministry of Culture, the Parliament, the National Audio-visual Council and to the media. Unfortunately, the politicians had another agenda. In June, the Parliament dismissed the two Boards of Management and appointed new ones under the old law. President Basescu and the Democratic Party protested against this measure and refused to appoint their representatives in the new Boards of Management.

After the new BMs were installed several draft laws were submitted by different MPs, some of them with no public consultation. Most of these projects do not ensure enough guarantees for the independence of the two public media institutions. None of them has been passed so far due to the political disputes inside the Parliament. As in the case of the new Penal Code the political class has yet to show real commitment for a truly independent public broadcasting.

The Ministry of Culture proposed a set of modifications of the **Copyright Law** which were passed by the Government in September. These modifications were passed without any public consultation and are strongly criticized by the media community

for favoring excessively the interests of copyright organizations. The previous law limited the amount of money to be paid by radio, televisions and cable operators to copyright organizations to maximum 2% of their annual revenues. The new law completely eliminates this limitation and leaves the actors to negotiate the amount to be paid. Media institutions expressed fear that these new regulations leave them at the hand of copyright organizations which can abuse their monopolistic status and impose high taxes on media outlets. These taxes may rise up to 17% of the total annual revenue of media institutions, putting at danger the existence of many of these outlets, particularly the local ones.

At the moment, the law is being debated in the Parliament it is expected to be voted in the spring of 2006.

**The National Audio-visual Council (NAC)** is the public institution which regulates the radio and TV markets. It is the warrantor of the public interest in the field of audio-visual communication and is the only regulatory authority in the field of audio-visual program services in the terms of and by observing the provisions of the **Audiovisual Law**. NAC has become much more active this year, monitoring much closer the representation of the political actors on the radio and television, and involving in a diversity of issues that affect directly the broadcasting system. It has also opened cooperation with media organizations.

In September 2005, liberal MP Ion Mihai Dumitrescu (who owns a private local television) introduced a new draft of the Audiovisual Law, without any public debate or consultation. The regulation of the advertising conditions for both public and private broadcasters in the new proposal introduced more relaxed conditions for advertising in the private sector and restricted the advertising for the public television. The law passed in October through the Chamber of Deputies by tacit approval procedure and received negative response from the Juridical Commission of the Senate. Yet, the project was passed in January 2006 by the Media Commission of the Senate. National Audio-visual Council, the public television and media NGOs protested against the nontransparent way in which the new draft law was passed.

Employers often force journalists to accept humiliating working and professional conditions. Many journalists work without labor contracts while their salaries are sometimes lower than the national average salary. The lack of strong unions leaves the journalists alone in front of media owners and editors, with no instruments to protect their basic **labor and professional rights**. Although the managements do not practice an open policy against unions, there are reports that such initiatives are discouraged by the owners and initiators risk to be fired.

At the same time, journalists refrain from suing media institutions which abusively dismiss them, although more and more journalists are winning in Courts such kind of lawsuits against their employers. Valentin Boeru, news producer at National TV was fired by the TV station on May 25 2004 on the basis of a 'restructuring' decision of his job. Boeru disputed the decision, proving that his position had not been restructured and won the trial at the end of 2005, when the Bucharest Tribunal decided that the journalist was illegally fired by National TV. The Tribunal summoned National TV to rehire the journalist and to pay all his salaries from May 2004 to the present day.

## CHAPTER II. CASUISTRY

### *1. Press Freedom and Free Speech violations*

*January, Bucharest;* Radu Timofte, head of SRI (the Romanian Intelligence Service) declared that two Romanian journalists are spies working for foreign secret services and they represent a danger for the national security. He mentioned that the two journalists are working for foreign publications and their phones are being tapped. Romanian media organizations and Reporters without Borders asked SRI to make public the names of the two journalists, but their request was denied. Few days earlier, a newspaper published a document proving that the Ministry of Internal Affairs had requested in 2003 an approval from the Anticorruption Prosecution (PNA) to listen the phone calls of two news agencies (*Mediafax* and *AM Press*). PNA denied the request.

*February, Baia Mare;* Local journalist Ioan Romeo Rosiiianu made several TV reportages at local TV station *Canal 7+* investigating the way in which public money were spent by the Baia Mare City Hall. Soon after this, the TV station signed a contract with the City Hall for about 1000\$/month for hosting a TV show to inform the citizens about the activities of the local administration. The show replaced the show of Rosiiianu. On the 8<sup>th</sup> and 11<sup>th</sup> of February, the journalist made a request under the Freedom of Information law to the City Hall asking information about some land transactions made by the City Hall and other issues related to public funds expenditure.

On February 13, Rosiiianu was invited to speak about these requests at another local cable television, *Club TV*. The owner of *TV Canal 7+* asked Rosiiianu not to participate in that show threatening to fire him. He also blackmailed *Club TV* not to air the show threatening that he would stop the airing of the show. *TV Canal 7+* is the cable distributor in the region. *Club TV* decided not to air the show.

On February 14, IR Rosiiianu was fired by *TV Canal 7+* and later he sued the channel for abusive dismissal. He won the case with a definitive sentence and received 500 million lei (15,000 euros) as financial damages, 100 million lei as moral damages and 8.2 million lei for trial costs.

On March the 3<sup>rd</sup>, the National Audio-visual Council (NAC), the regulating body in the broadcasting sector, considered this as "a case susceptible of censorship" in a response to an address sent by Rosiiianu. NAC also asked all TV stations to end this sort of sponsorship contracts with public authorities.

The journalist sued Mayor Cristian Anghel, too, for not providing the information he requested under the Freedom of Information law. He won the trial, but the mayor continued to refuse to offer the information. Failing to make public the information, Mayor Cristian Anghel was placed under criminal investigation by the Public Prosecutors for abuse in performing a public duty on January 13, 2006.

On January 26 2006, IR Rosiiianu won another case against the mayor and the TV Canal7+. He accused them of censorship and challenged the advertising contract between the City Hall and the TV station. The Court compelled the Mayor and the broadcaster to pay Rosiiianu 500 million lei as moral damages and 10 million lei as trial costs.

February 21<sup>st</sup>, Bucharest; Steaua Football Club banned the access of three publications belonging to the Ringier group (*Pro Sport, Evenimentul Zilei, Libertatea*) to all official activities of the club for "groundless attacks against the team".

On the 1st of August, the club undertook a similar measure against *Gazeta Sporturilor, Evenimentul Zilei* and *Pro Sport*, withdrawing their accreditations for all the 2005-2006 competition seasons "to protect the club's image (...) taking into account the disparaging comments made against the club in the pages of the three newspapers."

May, Bucharest; Andreea Pora and Sabina Fati, journalists at national business daily *Averea* resigned to protest against the censorship imposed by the management of the newspaper, which banned an article that criticized the excessive presence of two other journalists on radio and TV talk shows. One of these journalists is Cristian Tudor Popescu, Director of national daily *Gandul* and the President of the Romanian Press Club. The person who banned the article is Sorin Rosca Stanescu, Director of national daily *Ziua* and at the same time General Director of Fulcrum, a company which is responsible for the management of three national dailies (*Ziua, Averea and Gardianul*). He motivated his decision invoking a non-aggression pact between the members of the Romanian Press Club. SR Stanescu is also a member of the RPC's Council of Honor.

September 9, Focsani; Jan Vraciu, senator of the Democratic Party (PD - ruling party), declared during a press conference that: "(...) *Monitorul de Vrancea* newspaper has been tolerated too much, and there is a limit which cannot be crossed. (...) So, this is not about democracy or press freedom, it is about a swamp which we have to wipe out." His declaration was in response to articles published by *Monitorul de Vrancea* showing that members or supporters of the two ruling parties (the Democratic Party PD and the National Liberal Party PNL) were granted the biggest public contracts in the region for renovating the schools affected by the summer floods.

Anti corruption prosecutors who investigate the case of the PSD Permanent Delegation records<sup>14</sup> questioned in early November 2005 Florin Hozoc, the person believed to have made the records public. Hozoc, who is the Director of *Romnet* news agency declared that he told prosecutors he had access to evidence which prove the authenticity of the records, but that he does not have the original recordings of the meetings. Hozoc claimed that prosecutors suggested him to reveal the names of his sources under the threat he would be accused of favoring the criminals. Hozoc refused to do so. The PSD records were made public in the national media in November 2004, few weeks before the general elections. They contained compromising declarations of PSD leaders regarding the control of media, the influence of Justice, etc. Some PSD leaders confirmed the authenticity of the records.

Dumitru Stavarache, Mayor of Bacau and member of the Liberal Party has made local journalists regret former PSD mayor Dumitru Sechelariu, well known for the pressures he exerted against local media during his mandate until 2004. Journalists from *Ziarul de Bacau* and *Desteptarea* have been harassed by the mayor, who sues them constantly for the articles they publish about the activities of the local administration. The City Hall also hinders the media in getting any kind of information concerning the activities of the administration. For each question the City

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<sup>14</sup> 2004 Press Freedom Report, Media Monitoring Agency, [www.mma.ro](http://www.mma.ro);

Hall asks journalists to write separate requests under the Freedom of Information law.

*Ziarul de Bacau* also mentions pressures exerted by the mayor, using public authorities to intimidate the newspaper.

The Anti-corruption Prosecution of Tg. Mures has monitored the phone calls of 46 journalists, newspapers and lawyers between 24.04.2003 - 25.05.2004, according to documents from the criminal file of Andreea Ciuca, a judge from Tg Mures investigated for bribe by the Anti-corruption Prosecution. The monitoring consisted in obtaining the lists of the telephone calls dialed and received by a number of persons, including journalists. Ciuca made these documents public in a press conference held on early February in Tg. Mures. Local journalists accused the prosecutors of tapping their phones, although there is no direct evidence in this sense. The Prosecution replied that they asked the phone companies to issue the lists of phone calls in order to prove that Ciuca stole secret documents from the server of the Mures Appeal Court, as "there are clues that data from the servers of the Courts were sent towards these phone numbers". It also mentioned that no phones were tapped.

## ***2. Attacks and threats against journalists***

The number of direct and brutal **attacks against journalists** has diminished compared to the previous years. Public authorities or politicians are still responsible for many cases of harassment. One case involved a serious aggression.

*February 3, 2005; Bontida; Vasile Bodocan, Mayor of Bontida attacked Ciprian Stan, journalist at Alfa TV Cluj while the latter was trying to make an interview inside the City Hall. The mayor hit the journalist and damaged the microphone and the equipment.*

*February 2, Bucharest; Stefan Marin, photo reporter at national daily Curentul was attacked inside his car which had the logo of the newspaper printed on the door. The journalist was documenting a case about businessman S.O. Vantu and he parked in front of the businessman's house. The aggressor who was identified as being a bodyguard of S.O. Vantu took the journalist's camera and left with it. He returned it after one minute without its memory card. Later on, the bodyguard gave the reporter another memory card identical to the original. According to his declaration, S.O. Vantu admitted having taken the journalist's card and having handed it to the Romanian Press Club (RPC) to show he had nothing to hide from the media. RPC handed the card to the police which returned it to the journalist.*

*July 21, Sighisoara; During a meeting of the Local Council, Ioan Dorin Danesan, the Mayor of Sighisoara attacked Cristian Teodorescu, a journalist at local weekly Punctul, when the journalist attempted to take a photo of him. The mayor grabbed the camera from the journalist's hands and refused to return it. Only after the journalist filed a complaint to the Police did the mayor return the camera.*

*August 3, Braila; Dan Munteanu, photo-reporter at daily Monitorul de Braila was brutally attacked while attempting to take pictures and document a story about a man who was found dead at Pietroiu Farm. The aggressor is Vasile Simion, who claimed that the journalist was trespassing his property. He hit the journalist with the fists and tried to destroy his camera. He threatened the journalist and instigated*

other persons to attack him. The whole incident took place under the eyes of a policeman who did not intervene until the journalist asked him to do so.

*November 25, Bucharest;* The worst case of aggression took place. A cameraman from the public television was beaten by fans of Rapid football club on Baneasa Airport when the football team returned from Ukraine after a football match. Minutes before, the fans were involved in an incident with officials from the club.

The cameraman was severely beaten when he asked the supporters to return his microphone, which was taken away by the fans before. Cameramen from other TV stations were also threatened and prevented from filming the incident. A policeman was present at the scene of the incident but did not intervene. The cameraman was taken to the hospital where he received medical treatment and was diagnosed with severe skull and nose injuries.

The cameraman refused to reveal his identity for fear of reprisals from the supporters.

The aggressors were later identified and police pressed charges against them. The management of Rapid decided to ban their access to the stadium for an indefinite period of time.

The number of **threats** identified by MMA is also significantly lower comparing to previous years.

*June, Botosani;* Several journalists working for *Curierul de Botosani* were threatened by local members of the PRM party (The Greater Romania Party). Valentin Guraliuc, PRM representative in the Local Council approached the mother of Dan Sociu, telling her that 'something bad' would happen to her son if he does not stop writing about him.

Previously, Dociu published several materials in which he accused Guraliuc of belonging to former communist political police – Securitate.

A second journalist, Lucian Alecsa, had a phone call from a man claiming to be a secretary of PRM and was told that if he continued to write columns for the publication, 'something bad' could happen to him on his long drives to the news room in Botosani (the journalist lives in the nearby town of Saveni).

*June, Braila;* Journalist Narcis Voica from local daily *Obiectiv – Vocea Brailei* was followed, harassed and threatened by local mafia after writing about a crime committed on the 10th of June by a group of gangsters. On June 16, a car waited for half an hour in front of the newspaper's offices. The journalists called the police.

On June 21<sup>st</sup>, the journalist went to document an incident which took place between two gangs. When he arrived at the scene, members of a gang started threatening him under the eyes of passive policemen. The journalist published an article about this incident and accused the policeman of complicity with the gangsters. The policeman and the leader of the gang then sued the journalist for calumny. One odd thing is that the two persons went together to file their complaints and that the registration numbers of the complaints are consecutive.

*September 1, Bucharest;* Aurel Pana, general director of Apele Romane (National Water Company), threatened national daily *Cotidianul* after it published an investigation about how a luxury residential area was included by Apele Romane on the list of areas which need investment for flood protection, although the area was never flooded. He called Antoaneta Etves, the author of the investigation and said: "I

will set you on fire! I am running for a position in the party (Democratic Party) and you are damaging my image! I will take care that you never publish again". He also threatened to cancel the advertising contract Apele Romane had with the newspaper: "You are my slaves as long as I pay you advertising! I got my eyes on you!" After several media organizations protested, Aurel Pana presented public excuses to journalists from *Cotidianul*.

### 3. Denial of Access to Public Information

In 2005 there was a significant number of cases which involve **denial of access to public information**.

*February 28, Tirgu Mures;* Tg Mures Appeal Court withdrew the accreditation of Adrian Giurgea, local correspondent of the newspaper due to "the way the journalist reported the activities of the Tg Mures Court". This decision was illegal, violating the provisions of the law of access to public information 544/2001 which states that the journalists' accreditations to public institutions cannot be suspended for the content of their articles. Following protests from several organizations, the Court reconsidered its decision.

*July 28, Bucharest;* CNSAS (the National College for Studying the Political Police - Securitate - Archives) withdrew the accreditation of Mirela Corlatan, journalist at national daily *Cotidianul*, after she published an article in which she criticized the institution. CNSAS used an article from its internal regulation which said that "CNSAS can withdraw the accreditation of those researchers who use the information for any other reasons except the scientific ones". Yet, when Mirela Corlatan got the accreditation she announced the institution that she will publish the information in the media.

At the same time, CNSAS refused to provide the information requested by Mirela Corlatan on the basis of the freedom of information law 544/2001. The journalist demanded CNSAS to provide information about a trip of its members to the Black Sea to inaugurate a photo exhibition – list of the delegation, places of accommodation, the budget of the exhibition and other costs and expenditures. The members of the College and their families were accommodated at the most expensive 5 stars hotel in a Black Sea resort. CNSAS claims the requested information made exception for the law provisions, because "it contained personal data of the participants and their publication might violate the principles of loyal competition".

*August 27, Ploiesti;* Emil Calota, mayor of Ploiesti, withdrew the accreditation of Alexandru Stefan, journalist at *Informatia Prahovei*. During a press conference held by Ploiesti City Hall to present the results of an opinion poll, the journalist expressed his dissatisfaction with the answers he received to his questions and insisted to get a clear answer from the sociologist who was presenting the results of an opinion poll together with the mayor. Next day, the mayor announced that he cancelled the accreditation of the journalist claiming that he 'disturbed the activity of the institution'. The decision violates the law on access to public information.

*September, Timisoara;* Malin Bot, local correspondent of *Evenimentul Zilei* daily, made a request under the Freedom of Information Law, asking Timisoara Public Prosecution to provide him with information regarding the names, the positions and

the activities of the prosecutors, their salaries, the number of files investigated by each of the prosecutors in 2004 and 2005 and the outcomes of these investigations. The journalist made this request after receiving information from the guards of the Prosecution that many prosecutors did not respect their working schedules during the summer. As the answer was incomplete and came after the legal term, Malin Bot sued the Public Prosecution. The Tribunal of Timisoara rejected the action brought by the journalist and condemned him to pay 11 million lei (300 euros) for trial costs. Malin Bot appealed the decision and the trial is still pending.

Nongovernmental organization Pro Democracy conducted a research in the county of Brasov asking 38 public institutions for public information for a period of four months. The report concluded that “four years after its approval, the law is as ignored and unknown as it was when being voted.”

The National Roads Company classified all public procurement contracts signed in 2005 by the institution, invoking a clause of confidentiality. The Prime Minister publicly condemned such practices, declaring that “contracts of public procurement should be transparent”.

#### **4. Lawsuits**

Ioan T. Morar, journalist at weekly satirical magazine *Academia Catavencu*, was sentenced in December 2005 by the Bucharest Tribunal to pay a criminal fine of 250 euros for calumny. Besides that, he had to pay together with the newspaper 10,000 USD as moral damages, plus 30,000 USD as trial costs.

He was sued in April 2004 by Victor Gaetan, an American citizen of Romanian origins, emigrated before 1989. Morar published several materials in which he accused Gaetan of being a member of former Securitate (the communist political police) and that he was behind Lia Roberts, a runner for the Romanian presidential elections in 2004. Gaetan lost the first trial, but won the appeal.

The journalist's lawyers declared they will appeal the decision at the European Court of Human Rights on grounds of lack of proportionality.

#### **5. Journalists kidnapped in Irak**

On March 28, three Romanian journalists together with their Iraqi guide were kidnapped in front of their hotel in Bagdad. The three journalists were: Marie Jeanne Ion (*Prima TV*), Sorin Miscoci (*Prima TV*) and Ovidiu Ohanesian (*Romania Libera*). Their guide was Muhamed Munaf.

In the beginning, the kidnappers did not formulate any political demands. The journalists were kidnapped with their guide, Mohamed Munaf, five days after arriving in Iraq. On the evening of March 30, two days after their abduction, the Qatar-based satellite TV news station Al-Jazeera broadcasted a very short video showing the three journalists alive.

A second, poor-quality video of the four hostages was aired by Al-Jazeera on April 22<sup>nd</sup>. It showed the journalists handcuffed, haggard, barefoot, and with guns pointed at their heads. Their abductors, who called themselves "The Brigade of Mouadh Ibn Jabal," threatened to kill them if the Romanian government did not

withdraw its troops from Iraq. On May 22<sup>nd</sup>, after 55 days of captivity, the three journalists and their guide were set free.

Omar Hayssam, a Syrian businessman living in Romania, was arrested and indicted for financing and planning terrorist activities, being accused of planning the kidnapping.

The Bucharest Prosecutor's Office said in a press release on May 27 that the kidnapping as well as the threats made by the group which held the journalists and their Iraqi guide, were designed to create strong emotion amongst the Romanian public opinion, that would focus attention on businessman Omar Hayssam. "He hoped to thus escape conviction in several cases in which he was accused of organized crime and numerous financial offences" said the Prosecutor's Office. Their accusations were based on the testimonies of nine people arrested and questioned in Baghdad, "who were directly involved in this hostage-taking".

Mohamed Munaf and Omar Hayssam are both subject of an arrest warrant for "terrorism" issued by the Bucharest Appeal Court, placing them in custody for a period of 29 days. This warrant was issued in the absence of Munaf. He was released on May 22 at the same time with the Romanian hostages, but is being held in Iraq by US forces.

Omar Hayssam had close relations with Prima TV, Romania Libera and with one of the journalists. He was a close business partner of the Social Democratic Party (PSD) Senator Ion Vasile, the father of Marie Jeanne Ion. There are suspicions that Hayssam financed the trip of the journalists.

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This project was funded, in part, through a U.S. Embassy grant. The opinions, findings and conclusions or recommendations expressed herein are those of the Author(s) and do not necessarily reflect those of the Department of State

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