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Agencia de Monitorizare a Presei

- Member of the Reporters without Borders Network -

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1. OVERVIEW

1.1. GENERAL CONSIDERATIONS

The most important events in 2008 having an impact on the freedom of speech were:

The unprecedented abuses committed by the authorities during the NATO summit.

The political power continued the tradition of legislative initiatives which bore a negative impact on the right to freedom of speech and on the right to access information (such as the law of positive news).

Promoting important legislative initiatives without public consultation and in total disregard of the law of decisional transparency no. 52/2003 (such as the projects of the new criminal procedure and civil procedure codes).

Lack of political will to improve the law of public broadcasters (the Romanian Television Company, and the Romanian Radio Company) and to grant the independence of the three public media institutions (the Romanian Television Company, the Romanian Radio Company, the National News Agency - Agerpres). The interim of Ioan Roșca at the management of Agerpres, which could barely be considered legal.

A precedent was created for disproportionate penalties applied to journalists (see the case of journalist Feri Predescu, sentenced by the court to pay the Mayor of Constanta RON 57 000 - approx. 13 500 EURO - as moral damages and trial fees, to apologize in an open letter and to publish the court's decision in a local newspaper and in one of national circulation).

The National Audiovisual Council censored political and commercial advertising, basing its decisions on judgments of value ambiguously defined by the law.

The continuation of the digital television transition process and the attempt of the Tariceanu Government to avoid applying a transparent mechanism of this process.

The economic crisis - a phenomenon which is beginning to strongly affect the media market.

The decrease of TV ratings and an increasing importance of the online sector.

The persistence of some advertisers' practice consisting in threatening the media institutions with ending advertising contracts because of dissatisfactions related to editorial policies ("Cupola" Case).

The pronounced degradation of the journalistic content by disregarding essential ethical and professional norms in favour of a sensationalist character (the cases of the high-school teacher and of the raped child).

Important media institutions sided with the authorities in their attempt to manipulate public opinion (NATO summit) or became the advocates of restrictions regarding freedom of artistic expression (as was the case of exhibits organized by the Romanian Cultural Institute).

The suspicion that some of the broadcasters used unethical and illegal practices in the election campaigns by charging fees for the appearance of candidates in debate shows hosted by well-known journalists.

The year 2008 registered a series of unprecedented abuses of the authorities during the NATO summit, organized in Bucharest between April the 2nd and 4th: citizens of the European Union who were not allowed to enter the country, tens of youngsters arrested and beaten up by the gendarmes for no reason, citizens taken from the streets to the Police stations because they were wearing badges considered to be suspicious by the Police agents, high ranking politicians applauding these abuses and the press paving the way for them, by playing into the authorities' hands

and disseminating panic and publishing misinformed articles which associated all protesters with extremism and violence.

A relatively high number of threats and aggressions against journalists have been recorded, especially around election events, sports events or trials with a high public impact. In many situations, the Police or gendarmerie passively witnessed the aggressions against journalists. There were few investigations on the part of the authorities to indicate or punish the perpetrators. It is alarming that there is still a large number of such incidents in which the perpetrators are public persons, politicians or representatives of important state institutions, including heads of secret services. Unfortunately, there were no public reactions of condemnation of such acts from the concerned institutions or from the political environment.

Political personalities continued to sue journalists. Amongst those that did so were the President of Romania, members of the authorities (see Radu Mazare, the Mayor of Constanta), members of Parliament or representatives of state companies.

Some politicians' obsession to turn the media into an obedient tool is especially marked out by their efforts in the legislative field. At various moments, the MPs promoted legal initiatives which were meant to restrict the right to freedom of speech and to free information, such as prohibiting dignitaries' houses to be photographed, preventing the publication of information which can damage our country's image abroad, prohibiting hidden cameras etc. The climax was reached in the summer of 2008, when two Senators initiated a law that would have forced the broadcasters to present to the public an equal number of positive and negative news. This piece of legislation was adopted by the plenum of the Senate.

The political parties continue to consider the three public media companies (the Romanian Television Company, the Romanian Radio Company, the National News Agency - Agerpres) as their own instruments. The legislative reform in the field ended through the rejection in the Senate of the draft law amending the law of public broadcasters. Meanwhile a politician is still at the head of the public television. Also, there were voices in the national news agency Agerpres who condemned the censorship and the political subordination of the institution.

In the election campaigns, the media was used for political purposes by many local politicians who control media outlets directly or through other entities, including through press distribution networks¹.

The freedom of artistic expression was, in its turn, affected by the moralizing discourse of some journalists and politicians protesting against the presentation of specific art works within exhibitions organized abroad by the Romanian Cultural Institute.

The National Audiovisual Council (NAC) committed acts of censorship based mainly on judgments of value. Throughout the year, it censored various political, artistic or commercial ads. Equally, the NAC continued its policy of transparency, having a decisive role in the reform of the audiovisual legislation (including in facilitating the digital television transition process). The NAC has also protested against dangerous legislative initiatives, contributing to their rejection by the Parliament or by the Government.

The labour rights of journalists are still being disregarded by many of their employers. The Collective Labour Contract is still ignored or disregarded and the public television still uses managerial technicalities in order to harass uncomfortable employees. However, more and more journalists win when suing to defend their labour rights.

The media market continues a noticeable process of tabloidisation of the information transmitted through print press, radio, TV and online, even on the niche news programs. The TV ratings have decreased noticeably, while the importance of the online sector has substantially accrued. The media market remains unregulated in regard to cross ownership and not at all transparent as far as its sources of financing are concerned. At a national level, the property structure has not changed compared to previous years².

The most alarming phenomenon is the unprecedented degradation of the media content, a result of the generalized contempt of the industry towards deontological norms. The competition for higher ratings seems to have only one solution - tabloidisation. Many cases involving the breach of privacy and of the rights of victims and children have been recorded. Various television institutions campaigned against, or in favour of, public persons, enabling thus some politicians to aggressively label them as "*press jukeboxes*" and to discredit the entire media community accordingly. There were cases where, during the elections, local newspapers accredited politicians and high-ranking civil servants as journalists at the polling stations.

¹ "Province Moguls: Barons Lead the Counties with the Remote in Their Hands", by Dan Duca, Cotidianul, March the 16th, 2009.

² See FreeEx Report "Press Freedom in Romania in 2007", Media Market Chapter.

1.2. MEDIA MARKET

The media market suffered no spectacular changes in 2008, especially as far as ownership is concerned, where the situation is practically unchanged³. The market continued to grow, but in a less spectacular way compared to previous years. The economical crisis gained momentum and the last months of 2008 and the first months of 2009 registered a reduction of advertising budgets, some owners closing publications (e.g. Ringier group which closed up the free newspaper Compact and various niche publications), others appealing to cost reductions, especially by dismissing part of the personnel (e.g. Pro TV Group, Romania Libera, Evenimentul Zilei) or by reducing salaries (e.g. Intact Group). On the other hand, the media group Realitatea - Catavencu announced in January 2009 that it increased the salaries of all employees by 11%.

The advertising market in 2008 was assessed during the year by industry representatives at approx. EUR 600 million, the televisions being the beneficiaries of approx. 80% of this amount. The overall growth compared to 2007 is of approx. 20%, the two election campaigns of last year contributing to this growth. However, these estimate figures must be revised, as the economic crisis has strongly borne upon the cash flow in the last trimester of 2008, the decrease being estimated to approx. 25%⁴.

The television market may be an example of such a decrease, estimated at EUR 350-400 million, but, according to the figures made public by the Manager of an important media agency⁵, it eventually amounted to only EUR 330 - 335 million. The televisions in Pro TV SA group attracted 36% of the total advertising amount, while their main competitor, Intact group, were the beneficiaries of only 18% of the total amount⁶. The gross profit (EBITDA) of Pro TV was of 112 million dollars, at a turnover of 275 million dollars⁷. The print press was assessed to a percentage of approx. 20% of the total advertising market, with approx. EUR 115 million⁸, but this figure could actually be even smaller, if we are to take into account that the economic crisis⁹ mostly affected the print press market.

The decrease of both television ratings and of newspaper circulation is easily noticeable. Pro TV used to be a leader on the television market in 2008, with a market quota of 16.5%, followed by the 9.4 percent of Antena1, then Acasa TV, Kanal D, Prima TV, Realitatea TV and TVR¹⁰. However, at the beginning of 2009, a strong increase of the ratings of Antena1 was registered, which in prime time exceeded the ratings of Pro TV¹¹. It is to be noticed how dramatically the public channel's ratings have decreased in favour of commercial stations, even in favour of some niche channels.

The print press recorded a spectacular evolution with regard to tabloids (increasing with over 70% compared to previous year), especially due to the growth of Click! and Cancan newspapers, which sold over

³ See FreeEx Report "Press Freedom in Romania in 2007", Media Market Chapter.

⁴ Information taken from the debates occasioned by the conference "Advertising in the Time of Crisis", organized by the Romanian Press Club in February 2009.

⁵ "TV Market in 2009 will be below 280 Million Euros", <http://comanescu.hotnews.ro>, interview with Octav Popescu, March the 18th, 2009.

⁶ "How the Cake of TV Ads was Shared", by Petre Barbu, Adevarul, January the 13th, 2009.

⁷ "PRO TV Obtained an Operational Profit of 112 Million Dollars", by Angela Placinta, Ziarul Financiar, 26.02.2009

⁸ "Election Advertising Rounded the Accounts of Newspapers", by Petre Barbu, Adevarul, July the 22nd, 2008

⁹ "TV Market in 2009 will be under 280 Million Euros", Iulian Comanescu, <http://comanescu.hotnews.ro>, March the 18th, 2009; interview with Octav Popescu.

¹⁰ "Pro TV was the Ratings Leader on all Programs in 2008", Mediafax, January the 7th, 2009.

¹¹ "Antena1 Surpassed Pro TV in Prime Time", by Iulia Bunea, Adevarul, April the 6th, 2009.

160,000 and 110,000 copies respectively. Another tabloid, Libertatea, remains the market leader, with over 235,000 sold copies¹². The quality newspaper market registered, in its turn, a spectacular evolution, especially towards the end of the year, when Adevarul exceeded the number of 60,000 sold copies, compared to an average of 28,000. During the period April-June, it managed to topple the former leader, Jurnalul National, as the sales of the latter decreased to 58,000 copies per edition. Romania Libera is maintaining its position, with sales over 53,000 copies. Except for Adevarul, the other newspapers (Evenimentul Zilei, Gandul, Cotidianul) have registered decreases in their circulation. Still, most of the newspapers recorded a growth in their ratings.

In its turn, the local press gained more income from advertising, also due to the two election campaigns of last year. European Media Investment AG (EMI) Group, a company affiliated to ARBOmedia AG (Germany), consolidated its leader position on the local print market after initiating a strategic partnership with Media Sud Europa Group in April. The latter owns the following publications: Curierul National, Gazeta de Olt and Gazeta de Sud (the latter being the local newspaper with the highest circulation). The partnership focuses on the editorial and printing areas.

In September, EMI altered its shareholding as the Swiss group Goldbach Media Group purchased ARBOmedia AG of Germany.

The radio market is dominated by Radio Romania Actualitati, with a market quota of 16.1 closely followed by Radio Europa FM (15.1) and KISS FM (14.1) - figures valid for the period September-December 2008¹³.

The online advertising market carried forward its growth, estimated to be between 12 and 15 million Euros. An important part of the online media industry decided to improve the market measuring instruments by using the SATI system (Study of Ratings and Traffic on the Internet) in order to measure the traffic data on the Internet. This instrument belongs to BRAT, the same body which audits newspaper circulation and ratings.

Conclusions:

The process of tabloidisation of information is on-going.

The decrease of TV ratings and increase of the importance of the online sector.

Growth of the market as compared to 2007, mitigated in the last trimester by the impact of the economic crisis.

The worldwide economic crisis has started interfering with the media market in the last trimester of 2008, with strong effects in the first months of 2009.

2. CASUISTRY

2.1. AGGRESSIONS

On January the 5th, a crew from the television station One TV, from Cluj, consisting of reporter Ala Spranceana and cameraman Florin Ferentiu, was assaulted on the ski slope in Baisoara, while making a reportage on the way in which people spend their holidays. The aggressor was Mihai Dan Antonescu, the son of former Deputy Napoleon Antonescu. He was annoyed because in that exact moment, the cameraman was shooting his children skiing on the slope.

The One TV reporter declared that they were going to shoot *“how crowded the slope was and how the tourists felt”*. *“I had talked to a ski instructor in order for him to offer us a summary related to his activity. I had interviewed him, and then we bore away in order to record him while explaining to the children how to ski. In this exact moment, a guy approached us and started hitting the cameraman with his ski and sticks”*¹⁴, Ala Spranceana

¹² www.brat.ro, audience figures at the end of 2008.

¹³ Association for Radio Ratings.

¹⁴ “The Son of Former Deputy Napoleon Antonescu, Investigated for Aggressing a Reporter”, by George Nicula, Anton Pana, Gardianul, January the 9th, 2008.

added. The journalist also recounted that she had tried to stop the aggressor, but he started hitting her as well: “*I was punched in my liver, he hit me and pushed me away*”¹⁵.

The reporter and the cameraman filed a complaint for beating and destruction of property, the file reaching the Prosecutor’s Office of Cluj-Napoca Court of Justice. At the end of 2008, Ala Spranceana declared that she had not yet been invited to give a statement in this case.

On March the 12th, the reporter of the local weekly paper Ziarul Tau of Focsani, Mihai Braha, was attacked, hit and maimed in front of his residence in Marasesti, Vrancea County. He declared that he had been punched and cut at one ear by a guy who had been under investigation in the weekly newspaper in Vrancea. The reporter recounted: “*I was shopping with my 9 year-old child, when I was approached by a man, Fanel Aldea. He is the beneficiary of an apartment granted out of house funds by Mayor Emilian Brasov, although his family owns another house. Initially he head butted me, and then he took out a knife or a screwdriver, and cut my year. Afterwards, he disappeared*”¹⁶.

The Editorial Manager of Ziarul Tau, Sebastian Oancea, stated that the reporter, Mihai Braha, had been threatened several times as a consequence of the investigation concerning the distribution of houses by the Marasesti Town Hall. The investigation was printed in the weekly newspaper from Vrancea: “*due to his articles, he received phone calls, such as: «I will cut you, I will do you!», but they have never acted before*”¹⁷.

Mihai Braha filed a complaint with the Police. The Panciu Court of Justice fined the aggressor with RON 600 and made him pay RON 400 in moral compensations. At the appeal, the Focsani District Court sentenced the aggressor to 3 months of prison reprieve and the pay of moral compensations in value of RON 1000.

On March the 16th, two journalists from Cluj, Gelu Radu and Alin Sutea, were assaulted at the end of the football match between “U” Cluj and Dacia Mioveni, by the employees of the security company, “Scutul Negru”, which were supposed to ensure the safety within the arena. According to various press sources¹⁸, two employees of this company randomly attacked a supporter. Consequently, the journalists interfered and requested the two guys to show their ID’s. The employees of the company became more and more violent and started hitting the journalists. “*We were in the middle of the crowd, trying to find out why they had hit that young man (...) they hit me various times*”¹⁹, the Editor of Ziua de Cluj, Alin Sutea, declared. The two journalists filed complaints against the employees of the security company. The Police immediately examined the two employees suspected of aggression.

On March the 22nd, a crew of Antena 3 station from Petrosani was attacked while documenting a conflict between two rival groups. As the website www.antena3.ro writes, various persons, disturbed by the camera, threw bottles at the journalists’ car and punched its windscreen until it broke. The journalists claim that the incident occurred right under the noses of some Police and gendarmerie crews, which only interfered after one of the reporters called 112. As a consequence of the aggression, one of the journalists needed medical care. He subsequently filed a complaint with the Police.

On April the 12th, Senator Corneliu Vadim Tudor staff attacked a crew of photographers from the Click! tabloid. When exiting the restaurant where the Senator had had his meal with other MPs of Greater Romania Party, as the press recounts, he was informed by his bodyguards that he was being followed by a car of Click! newspaper. That moment, the Senator angrily turned to the journalists’ car asking them to identify themselves and accusing them of breaching his right to privacy.

Upon the express request of the Senator, as the journalists’ video record²⁰ features, one of the Senator’s bodyguards confiscated the paparazzo’s camera and only gave it back after the Police had arrived. Out of the two

¹⁵ Ibid.

¹⁶ “An Editor of ‘Ziarul Tau’ had his Ear Cut”, by Dan Chiriac, Ziarul de Vrancea, March the 14th, 2008.

¹⁷ “Reporter with his Ear Cut for a Press Investigation”, by Caterina Nicolae, Gandul, March the 14th, 2008.

¹⁸ Ziua de Cluj, Citynews as well as the Cluj Professional Media Association’ statement (www.presaclujeana.ro).

¹⁹ “Incidents without Precedent at the End of a Match”, by Iulian Halba, Citynews, March the 16th, 2008.

²⁰ “Bandits in the Order of Vadim”, Click!, April the 14th, 2008.

photo-reporters' statements²¹, the moment one of them tried to call the Police, the Senator hit his hand and destroyed his mobile phone. They said that the gendarmes present at the scene had not stepped in any way in order to protect them. According to the two photo-reporters, after a Police crew arrived on the scene, Vadim Tudor is said to have called the Head of the Bucharest Police and the Minister of Internal Affairs, to whom he *"had angrily reproached that the Police agents did not do their job and did not defend him from the harassment of the media"*²². The same video recording shows how the Senator speaks on the mobile phone, which he then offers to the Police agent arrived on the scene.

Additionally, the photo-reporters declared that the PRM Senator had called them names, such as *"gypsies, greasers and hyenas"*²³, and the video recording shows how he labels them with words such as of *"mentally ill"* and *"crazy"*.

Both parties filed complaints, i.e. the Senator for the breach of his right to image and to private life, and the photo-reporters for aggression. Claudiu Valimaneanu, one of the reporters working together at this case with the two photo-reporters, declared at the end of last year that these complaints had had no other consequence, as the Police called no one for additional statements or investigations.

On the day of the first round of local elections, June the 1st, a cameraman of the TV Station Antena 1 was attacked while coming out of the polling station in Brahasesti, Galati County. According to the spokesperson's statements of Galati Prefecture, *"the journalist was not allowed to shoot inside the polling station by the station Chairperson and was asked to leave the area. When getting out from the station, the cameraman was jostled by a citizen of the commune, who took his tape from the video camera and destroyed it"*²⁴. The intervention of the gendarmes appeased the conflict. The cameraman did not want to file a complaint against the aggressor.

Two days before the second round of the general elections, on June the 13th, a crew of Realitatea TV Station was attacked in Sintesti. While the reporter was preparing an account concerning the atmosphere in town, one of the locals verbally assaulted them and asked them to stop filming. The site realitatea.net writes that *"although the reporter was standing in the middle of the road, the man (i.e. local) hit his microphone, and then threatened the entire crew with a shovel, on account of standing in the middle of his yard"*²⁵.

According to the same source, they needed the authorities to intervene in order to provide the protection for the journalists and to escort them safely out of town.

The day of the second round of local elections, June the 15th, a crew of the local television TV Galati, consisting of the reporter, the cameraman and the driver, was attacked, next to a polling station in the village of Talpigi, Ghidigeni, Galati County, by various individuals. As the three reporters recount, the TV Galati reporter was in the television car in order to prepare his material, when some persons descended upon the car, grabbed the camera from the image operator and tried to take the television driver out of the car. *"I noticed that there were around 40 people in a yard (the yard outside the house where the voting was taking place). They saw us with the camera, and two people went out of the yard, afterwards, others came as well. The driver noticed it and immediately started the engine. They put their hands around his neck and punched his lip. They hit the car with their feet, opened the doors, and grabbed the camera from the cameraman's hand, destroying his microphone"*²⁶, the television reporter told.

Alina Brandabur Salanti, Head Editor of the news department at TV Galati, declared that the authorities witnessed the entire scene without intervening in order to help the journalists. The reporters of the television in Galati managed to shoot in the commune only after filing a complaint at the Police Inspectorate of Galati County.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ "Antena 1 Cameraman, Assaulted in Galați County", www.ziare.com, June the 1st, 2008; "Antena 1 Cameraman Assaulted at a Voting Station", Financiarul, June the 1st, 2008.

²⁵ "Realitatea TV Crew Assaulted in Sintești, Before the Local Elections", www.Realitatea.net, June the 15th, 2008.

²⁶ "Journalists Beaten Next to the Voting Station in a Village in Galati", www.ziare.com June the 15th, 2008.

At the express order of the County Inspectorate, the Police in Ghidigeni provided them protection for the period of the shootings. After having arranged with the aggressors about the damage recovery, the journalists subsequently withdrew their complaints.

On August the 2nd, at the end of a friendly football match, journalist Ionel Lutan, reporter at Monitorul de Prahova and correspondent of Gazeta Sportului, claimed to have been physically and verbally assaulted by Stefan Chitu, the Chairperson of FC Ploiesti Club. The journalist declared that he was cursed and punched in the chest by Chairperson Chitu, because of various critical articles he had previously printed: *“he punched me in my chest and cursed me through a two-inch board because I had written that FCM Campina, Chitu’s former team, may concede its place in the second league to Dunarea Galati, due to financial problems”*²⁷.

MediaSind Trade Union sent a complaint to the Romanian Football Federation.

While trying to verify a piece of information regarding a public disorder deed, on August the 22nd, in Constanta, a crew of reporters of the local television station, TV Neptun, was assaulted by three young men. As the website of TV Neptun²⁸ writes, when they saw video cameras, the three young men became violent and started aggressing the journalists, *“pushing, hitting and swearing them through a two-inch board”*²⁹, right in full view of the Police agents who had also arrived on the scene. The Deputy Head of Constanta County Police Inspectorate, Chief Commissioner Adrian Rapotan, publicly criticized the two Police agents for not having stepped in to defend the journalists. He also stated that the concerned Police agents were to be judged by the disciplinary board³⁰. The three aggressors were subsequently identified by the authorities, each fined with RON 1000 and criminally investigated for insult and threat, as a consequence of the complaints formulated by the journalists.

On August the 28th, the reporters arrived in Craiova to report on the burial of the former underworld leader, Mihai Parvu, alias Caiac, were attacked by the members of the cortege, cursed and threatened during the entire period of the events. The journalists declared to have had bottles of water thrown at them from the middle of the funerary cortege, to have been jostled, spitted, cursed and often verbally threatened to stop shooting. The numerous law enforcement agents present at the scene did not intervene in order to provide the protection of the journalists. The correspondent of Realitatea TV, whose crew of journalists was also the target of aggressions, stated, according to the Ziare.com³¹ website, that, although they asked for the help of the authorities, no reaction was noticed. On the contrary, one of the Police heads present at the scene allegedly advised the journalists to *“mind their own business”* and to *“be nice”*.

Likewise, the journalists present at Caiac’s house were cursed, spitted and threatened by acquaintances of the deceased’s relatives. The cameramen were prevented from shooting and the reporters from two local newspapers were chased on the streets; one of them subsequently stated: *“they cursed us, splattered us with water and then started chasing us. We barely managed to escape”*³².

The site of Realitatea TV related³³ that as a consequence of the aggressions, two young men had been opened criminal records.

On September the 6th, various players of the national football team insulted and threw stones at a group of journalists in the Botanical Garden in Cluj. The journalists were there in order to shoot. The incident occurred the morning before the football match between Romania and Lithuania, within the preliminaries of the Football World Championship in 2010. The players were there in order to relax before the match and, according to an official release of the Romanian Football Federation, no activity with the press had been scheduled. Disturbed by the

²⁷ “Journalist Beaten by a FRF Official”, by Marius Nica, Evenimentul Zilei, August the 4th, 2008.

²⁸ “Investigated Police Agents”, by Madalina Poenaru, www.tvneptun.ro, August the 22nd, 2008.

²⁹ Ibid.

³⁰ Ibid.

³¹ “Journalists Aggressed at Caiac’s Funeral”, www.ziare.com, August the 28th, 2008.

³² “Flowers were Thrown Out of the Plane over Caiac’s Coffin”, Lucian Cazan, Cotidianul, August the 28th, 2008.

³³ “Two of the Aggressors of the Journalists Present at Caiac’s Funeral were Drafted Criminal Files”, RealitateaTV.net, August the 29th, 2008.

journalists' insistence in getting close to them and shooting them for the entire duration of their presence in the Botanical Garden, several players started to insult ("*You rats, back to your kennels!*")³⁴ and to throw stones at them. The players and FRF officials accuse in return the aggressive behaviour of the journalists in a moment when they wanted to peacefully relax before the match. According to various newspapers, the spokesperson of FRF apologized to the journalists after the incident.

Ioan Romeo Rosiiianu and Claudiu Florescu, two journalists in Baia-Mare, repeatedly received death threats in October and November 2008. On November the 8th, the two journalists were attacked by two individuals in the parking lot of a restaurant, shortly after they finished a TV show moderated by Rosiiianu at the local television Axa TV. According to Romeo Rosiiianu, he was pushed and punched twice. "*They threatened me that if I did not stop the disclosures they would cut my throat*", the journalist also stated. The threats and the aggression took place after a period when the two reporters had presented, at Axa TV and in the Necenzurat weekly newspaper, a series of pieces of information regarding possible connections between the local mafia in Maramures, the City Hall and the Police. One week later, Rosiiianu's contract with Axa TV Transilvania was suddenly terminated. The investigation launched by the Police following the complaint submitted by Rosiiianu had not been finalized 5 months after the events.

Conclusions:

**In many cases, law enforcement representatives passively witness the aggressions against journalists.
A lack of interest can be noticed in solving the cases of aggressions against journalists.**

Recommendations:

Law enforcement representatives should provide protection to journalists which carryout the task of informing the public. The dissemination of the conclusions of Police investigations and of the resolutions granted by the Prosecutor's Office, Courts of Justice, District Courts etc. can play the positive role of diminishing the number of aggressions against journalists.

The journalists should badge with press vests and journalist's ID when found at the scene in potential conflict areas.

The journalists should refrain from harassing public figures and regular citizens when the searched information is not of public interest.

2.2. THREATS AND INSULTS

The former glories of the Romanian tennis, Ilie Nastase and Ion Tiriac, insulted and threatened Marius Chican, journalist for Evenimentul Zilei, after he published an investigation describing the alleged fraudulent manner in which the Romanian Tennis Federation (FRT) had spent the public funds for organizing the Davis Cup match between Romania and France, in Sibiu. On February the 6th, Ilie Nastase, then the president of FRT, made death threats against Marius Chican through Daniel Chican, his brother and a journalist as well. This was publicly admitted by Nastase two days later during a television show. The following day came Tiriac's turn to threaten the journalist: "*Sir, I, Ion Tiriac, can only promise you that I am going to personally take care of you! (...) Do you know that I am an advertising client of the «Evenimentul Zilei» newspaper? I invest advertising in this newspaper*"³⁵. Only a few days after the beginning of the scandal, Ilie Nastase quit his position of president of FRT

³⁴ "Gabriel Tamas and Bogdan Lobont Insulted several Journalists: You Rats, Back to Your Kennel!", Vlad Epurescu, www.hotnews.ro, August the 6th, 2008.

³⁵ "Tiriac Threatened an EVZ Journalist: "I will Personally Take Care of You!", by Matei Udrea, Marius Chican, February the 11th, 2008.

and his wife declared: *“As Evenimentul Zilei was right, Ilie quits as he does not want his name to be dragged into this scandal”*³⁶.

At the end of May, the correspondent in Gheorghieni of Új Magyar Szó daily, Marti Barabas, received by telephone a wave of anonymous threats - 18 calls counted by the journalist. According to her, in one of the calls, a man's voice told her in Hungarian: *“Whoever stands before us can be shot. I am telling you just so you know!”* The threats occurred after the 16th of May, when the journalist published a large article, regarding lumber mafia in Harghita County³⁷. The received threats advised her to better put a stop to the articles on lumber mafia, or she might be sorry³⁸. For a short period of time, Marti Barabas withdrew from her journalistic activity.

Evenimentul Zilei informed in an article published on June the 30th, that journalist Mihai Munteanu was threatened with death. Munteanu is the author of the “Cupola” series, a number of fourteen articles investigating, according to the newspaper, *“the business and information networks of former spies”*. Both the journalist and his mother received messages on their mobile phone warning them that *“the disclosures made some people really angry”*³⁹. According to Evenimentul Zilei, Mihai Munteanu was phoned by a certain Oleg, *“who explicitly told him that - in case he did not calm down - his mother would read his obituary in the newspaper”*⁴⁰. Their conversation ended with another threat: *“Please behave, or your mother will receive your head in the car trunk”*⁴¹. Oleg had also allegedly specified, according to Evenimentul Zilei, that the source of his “anger” was the article printed by Mihai Munteanu in the “Cupola” series on June the 23rd: *“IUDA Network - Ivan's Spies”*.

Laszlo Kallai, journalist at the Ziua daily, was threatened on October the 15th by Vasile Muresan, the Head of the Flagrant Service of the General Directorate of Information and Internal Protection (DGIPI) within the Ministry of the Interior and Administrative Reform (MIRA). Kallai had conducted an investigation in the Maramures County, concerning the relations between various high ranking officials in MIRA and the organized crime in the region. Vasile Muresan was amongst the persons regarded in this story. Returned to Bucharest, the journalist met Vasile Muresan for an interview. He refused to be recorded, but the journalist managed to record the first part of their dialogue and published it subsequently:

“Vasile Muresan: ...I want to tell you and I wouldn't like it to affect you or certain colleagues of yours, by recording it.

Laszlo Kallai: I do not know what would affect me.

Vasile Muresan: Once more, I have told you before. As of me, do not record. But if you do, I will as well.

Laszlo Kallai: OK. So, you don't you want me to record?

*Vasile Muresan: I do not want to record, due to my sincere relationship with you and some of your colleagues”*⁴².

Kallai affirms of having been threatened by the official of the Ministry of the Interior and Administrative Reform after having turned off the recorder: *“The Minister called me to account for the investigation you conduct. I was recommended to have you all beaten up. (...) Many things can happen to you, Mr. Kallai”*⁴³.

Subsequently, the journalist requested the management of Ziua newspaper to be transferred from the Investigations Department to a position with no connection to the publishing activity.

³⁶ “Ilie Nastase Resigned”, Evenimentul Zilei, February the 12th, 2008.

³⁷ “Lumber Mafia in Action”, by Marti Barabas, Új Magyar Szó, May the 16th, 2008 (available in Hungarian) www.maszol.ro.

³⁸ See the release of the Új Magyar Szó editorial office, May the 23rd, 2008 (available in Hungarian) www.maszol.ro.

³⁹ “EVZ Journalist Threatened with Death”, by Liviu Rotaru, Evenimentul Zilei, June the 30th, 2008.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² “Ministry of the Interior Heads Attack Ziua”, by Petre Niteanu, Mihai Palsu, Ziua, October the 17th, 2008.

⁴³ Ibid.

Recommendations:

Threats of any kind addressed to the press are unacceptable, especially when they originate from representatives of the authorities, politicians and other public figures.

Public institutions or authorities, whose employees threaten the journalists, should distance themselves from such conducts and condemn them.

Media institutions have the duty to get actively involved in protecting the journalists, to provide them with the adequate training for accounting cases involving investigations of the underworld environment or visits in conflict areas and to keep in touch with national and international organizations concerned with journalists' protection.

2.3. PRESSURES FROM THE AUTHORITIES. POLITICAL AND ECONOMICAL PRESSURES

Radu Gafta, former News Editor at the public television TVR, brought into the open the editorial pressures that journalists in the news department are subjected to by the new management in charge, established in November 2007 after Rodica Culcer's dismissal (*"Former editors and producers especially emphasized political and economical news, in this order. The new team especially focuses on social news"*⁴⁴). Gafta also mentioned the pressures from the political area (*"Especially regarding political phone calls. You must know that the News Manager"⁴⁵ acts like an umbrella stopping the bulk quantity of pressures coming from the outside. The pressures also go directly to some reporters. But the pressures coming from high above reach the Manager"*⁴⁶).

On March the 19th, Liviu Dragnea, Vice-President of the Social - Democratic Party (PSD) - one of the most important parliamentary parties in Romania - and also the President of Teleorman County Council, asked the Alexandria Court of Justice to issue a presidential ordinance based on Art. 581 in the Civil Procedure Code requesting to *"halt the distribution of Gazeta de Sud Est newspaper in the Teleorman County until these campaigns come to an end"* (i.e. the 2008 election campaigns). Dragnea justified his demand mentioning the presence in the pages of the publication of some articles regarding his activity, articles he considered to be injurious and seriously affecting his dignity and image. The Court rejected Liviu Dragnea's request.

Notified by the MMA to express a point of view related to this situation and to publicly announce whether it agrees with Dragnea or condemns his conduct, the management of PSD had no reaction. It must also be mentioned that Liviu Dragnea was appointed for a short period of time (December 2008 - January 2009) in the position of Minister of the Interior and Administration Reform, in the new PSD - PD-L (Liberal-Democrat Party) Government created after the 2008 parliamentary elections.

The NATO annual summit organized by Romania brought forth the most serious abuses regarding the freedom of speech committed by the Romanian Government in the last years. The ground was laid even by certain media outlets which played into the hands of the authorities by printing, a few months before the event, scaremonger and misleading materials associating all protesters with extremism and violence. The articles brought up the idea that potential protests against NATO were to be violent, putting citizens' safety in jeopardy: *"The anarchists are going to make their presence felt in the Capital by destroying various shops and by testing the vigilance of law enforcement authorities"*⁴⁷ ; *"They are young, dressed in dark colours, cover their faces with masks or hoods and start their attack! Many of them are arrested during the clashes with the authorities, but go back on the streets,*

⁴⁴ "How are Pressures Made at TVR News?", by Costi Rogozanu, Cotidianul, January the 22nd, 2008.

⁴⁵ Rodica Culcer, Manager of the News Direction at that date.

⁴⁶ "How are Pressures Made at TVR News?", by Costi Rogozanu, Cotidianul, January the 22nd, 2008.

⁴⁷ Realitatea TV, April the 1st, 2008.

with the first opportunity. They break windows, throw stones and Molotov cocktails and storm the safety barriers”⁴⁸; “<Activists for peace>, the Anarchists need to fight”⁴⁹.

The first incident took place on March the 20th, when six German citizens were denied entry in Romania at the border between Romania and Bulgaria, at Calafat, and were detained for 19 hours for search, checks and interrogations. The Media Monitoring Agency and APADOR-CH protested against this abuse and requested a legal motivation from the authorities. On March the 21st, the Romanian Intelligence Service (SRI) and the Border Police motivated their decision by stating that the six persons were members of an anarchist organisation. The detainees had “*various materials (CD’s, magazines, posters, flyers, badges) containing anti-NATO and anti-globalisation messages, which were to be used during the summit, in organizing potentially violent anti-NATO actions*”. Four of the six German citizens tried again to enter Romania on March the 25th, but were rejected again. Die Young, a punk music band from the United States, found themselves in the same situation when they were denied entry at the Cenad border crossing, on March the 28th. The band was to perform a concert in Bucharest, on March the 29th.

Starting with March the 29th, the anti-NATO activists have been constantly harassed by the Police on the streets of Bucharest, but also on the railway routes connecting the Capital to the rest of the country. The activists were taken to Police stations for ridiculous reasons (amongst which, having beer in their possession) and sometimes detained there for 6 hours. Alexandra Radu, journalist for Romania Libera, also found herself among the detained persons. She was retained on April the 1st, around the Obor area, while documenting a material on the anti-NATO activists who were distributing flyers in the area. Various persons, out of which some were journalists, were also stopped on the streets, identified and taken to Police stations because they were wearing badges with anti-NATO messages or other objects and marks considered suspect by the Police.

On April the 2nd, the day when the NATO summit began, the gendarmerie assaulted the industrial hall in Timpuri Noi area, where the anti-NATO activists were gathered. The intervention took place around noon and was extremely violent, the gendarmerie using tear gas and being heavily armed with combat weapons. All 46 persons found in the hall were taken to four Police stations in order to be interrogated. The majority of the detained persons were foreign citizens. According to their statements, they were all beaten up by the intervention forces, kept for tens of minutes with their faces against the ground, threatened, offended, although they did not resist in any way. Some of them needed medical care; as a consequence of the blows, a young woman fractured one of her legs and a young man from the Republic of Moldova also suffered from a fractured leg and multiple hits in his face and head. The following day, the Gendarmerie spokesperson affirmed in a press statement that the injured persons “had self-inflicted wounds”.

Around three hours after the intervention, other six youngsters found in the area were forcibly taken from the streets to a Police station.

Razvan Martin, member of the Media Monitoring Agency was among them, present in the area to document the events.

During all this time, the Police denied that the 51 youngsters had been arrested, detained or had their freedom obstructed, affirming that they were taken to Police stations for verification.

Police Chief Marian Tutilescu declared a few hours after the intervention that it was necessary as the Manager of Flaros SA, the company that rented the hall to the anti-NATO activists, was aggressed by four persons who, using a van, tried to bring in flammable materials inside the factory. After the intervention was over, the Police Spokesperson, Christian Ciocan, declared to the media: “*We found nothing illegal on them; they only had colour sprays*”.

The Media Monitoring Agency was on the scene in order to document the events and to offer legal assistance to the detained persons. Other two human rights organisations (the Centre for Legal Resources and APADOR-CH) sent their attorneys to the four Police stations in order to grant legal aid. The MMA representatives also alerted the media on the occurred events, and the pressure of the media and the attorneys’ presence both contributed to the release of the persons detained in the evening of April the 2nd, the last ones being released at around 11:00 pm.

The following days, the anti-NATO activists were allowed to re-enter the location they rented, where they organised a punk music concert on April the 4th. An unauthorized march to the Institute of Forensic Medicine was organised, in order for the injured persons to obtain medical certificates. Likewise, the authorities did not intervene.

⁴⁸ Realitatea TV, March the 21st, 2008.

⁴⁹ Evenimentul Zilei, March the 29th, 2008.

The Police carried forward its methods of public opinion intoxication, by denigrating the persons that intervened against the abuse of the authorities. It provided the journalists with “off the record” information saying that the MMA representative, Razvan Martin, had been amongst the presumptive aggressors of the Manager of Flaros SA. Several newspapers and national TV stations took in this rumour. No complaint has ever been filed against Razvan Martin, not even after a year from the events.

Prime-Minister Tariceanu reacted against the abuse of the authorities assigned the Minister of the Interior, Cristian David, to carryout an investigation. The investigation identified no culprit for the concerned abuses, and no person was held responsible for them.

Furthermore, important politicians applauded the Police intervention. Puiu Hasotti, Vice-president of the Liberal National Party (PNL, the governing party at that time) and leader of the PNL parliamentary group declared, according to NewsIn Agency, that no investigation was needed regarding the intervention of the authorities, “*we wonder why they didn’t intervene more aggressively, because we would rather have committed an injustice than to allow disorder.*” In the liberal Senator’s opinion, the development of the NATO summit, “*the most important event in the history of Romania*” would justify the “*aggressive*” intervention of law enforcement authorities.

Various complaints have been filed, but the inquiry has only reached the step of preliminary investigation.

On May the 19th, during a local election campaign, the Gazeta de Sud local newspaper disappeared from almost all newspaper stands in Craiova. The newspaper contained an investigation regarding the way in which the President of Dolj County Council came into the possession of a villa in the centre of Craiova City.

The management of the national press agency, Agerpres (former Rompres until 2008) was accused of censorship by Robert Mihailescu, former Head Editor of the Internal News Department. The management suspended him from his position at the end of May as he “*had no editorial strategy for the election campaign, he did not send the editors’ job descriptions on time, but also for having publicly accused Rompres of censorship*”⁵⁰. Mihailescu filed a law-suit against Agerpres contesting the legality of the suspension decision.

The object of the accusation was the failure of Agerpres management to broadcast news regarding one of the candidates to the Capital City Hall, the current Mayor, Sorin Oprescu, and the refusal to send reporters to his election actions. The Manager of Agerpres, Ioan Rosca, denied the accusations in a statement provided to Cotidianul daily: “*It is impossible for us to send people to each and every meeting Oprescu has at the subway. Our editorial policy does not assume that if someone organizes a conference, one must immediately go there. It depends on the importance of the event*”⁵¹. Likewise, a material on the Securitate informant files of Great Romania Party (PRM) Deputies, Aurel Rus and Dumitru Avram - the latter being a former employee of Agerpres - was not broadcasted, according to the journalist’s accusations. Rosca denies the accusations in the same article published by Cotidianul: “*The off the record news from CNSAS (National Council for the Study of Securitate Archives) appeared Thursday on MEDIAFAX. Rompres printed nothing, not because we had prohibited it, but because it simply did not have it. (...) The National Agency shouldn’t have gone off the record, make disclosures, investigations. This is our statute*”⁵². Mihailescu also pointed out, in a statement printed by Adevarul, that Agerpres was supporting certain parties: “*I know famous journalists from the agency who left as they did not bear anymore to summarize in one sole paragraph five pieces of news from an opposition party*”⁵³.

Another problem Mihailescu pointed out was the illegal extension of Ioan Rosca’s Manager mandate, although his legal mandate had expired on March the 19th. Rompres operating law does not regulate the interim. In September, Agerpres forwarded to the Parliament a project to modify Rompres operating law in order to establish, amongst others, the automatic extension of its Manager’s mandate until a new Manager is appointed by Parliament. The legal initiative also includes provisions regarding to pay rises, the modification of the appointment procedure for the Agerpres Manager and asks for this prerogative to be transferred from the Prime-Minister to the Parliament. On September the 24th, the Parliament voted the extension of Ioan Rosca’s mandate until the appointment of a new Manager.

⁵⁰ “Rompres Manager, Accused of Censorship”, by Alexandra Badicioiu, Cotidianul, July the 1st, 2008.

⁵¹ Ibid.

⁵² Ibid.

⁵³ “Agerpres Lies on a Powder Barrel”, by Andreea Lupu, Adevarul, July the 23rd, 2008.

Robert Mihailescu's protest drew in a trade union initiative - the United Trade Union of Newsmen led by journalist Ovidiu Barbulescu. The management reacted rapidly and signed a Collective Labour Contract with another Trade Union, the Trade Union of Professional Journalists, which "*is a trade union pertaining to the management, of General Manager Ioan Rosca*"⁵⁴, as Barbulescu affirms. As a consequence of this situation, Barbulescu retired from the editorial office, accusing "*the problematic editorial policies*" practiced by the management of the agency and the fact that "*the institution is afraid to upset political figures and acts as a guard dog of the institutions, and not as a protector of public interest*"⁵⁵.

An article printed on June the 30th by Evenimentul Zilei informed that journalist Mihai Munteanu was threatened with death. Munteanu is the author of the "Cupola" series, a series of fourteen articles dealing, according to the newspaper, with the investigation of "*business and information networks of former spies*". Both the journalist and his mother received warning messages on their mobile phones saying that the "*concerned disclosures made many people very angry*"⁵⁶. As Evenimentul Zilei recounts, Mihai Munteanu was called by a certain Oleg, "*who explicitly told him that - in case he did not calm down - his mother would read his obituary in the newspaper*"⁵⁷. The end of the conversation consisted of one more threat: "*Please be nice or your mother will receive your head in her car trunk*"⁵⁸. Oleg also mentioned, according to Evenimentul Zilei, that the source of his "*anger*" was the article printed by Mihai Munteanu in the "Cupola" series on June the 23rd: "*IUDA Network -Ivan's Spies*".

The Head Editor of Evenimentul Zilei, Horia Ghibutiu, announced in his editorial printed on July the 28th that the "Cupola" investigation series took a vacation for the summer, following to be resumed on September the 15th. At the beginning of September, the entire archive related to Cupola file disappeared from the internet page of Evenimentul Zilei. As a consequence of the authors' protests, a few days later, the materials reappeared on the website.

On September the 12th, the interim Head Editor of Evenimentul Zilei, Vlad Macovei, printed an article apologizing to the readers of the newspaper for the failure to meet the promised deadline and for the delay in continuing the investigation as "*it needs additional control filters, such as the approval of the legal department, for us to make sure that the concerned texts are solid*"⁵⁹. Macovei also affirmed that the members of the editorial office were "*subjected to high pressures to block these disclosures and we are also threatened with lawsuits*".

The Media Monitoring Agency contacted Mihai Munteanu who confirmed the existence of pressures from some of the companies which had been investigated in the "Cupola" series. These pressures consisted of threats, such as withdrawal of advertising and court actions. Munteanu also considered that the delay to print the series was unjustified, mentioning however that the editorial management has promised that it was going to be resumed at the end of May 2009. In his turn, Vlad Macovei confirmed for the MMA in April 2009 that the "Cupola" series would be soon resumed.

In August, the Ghimpele de Iasi publication stopped from printing a material by the well-known commentator, Liviu Antonesei. The publication belongs to Intact Trust. The material contained critics addressed to former Prime-Minister Adrian Nastase. The commentator states that the Head Editor of the publication, Angela Maftai, informed him by e-mail on the reasons of this decision: "*The staff of <Ghimpele de Iasi> expressly require: 1. to only discuss local subjects; 2. not to pick on the PSD any longer*"⁶⁰. Angela Maftai stated for Cotidianul: "*The reason for rejecting the material was its failure to meet the editorial policies of our publication which is to analyse a particular situation, an event or subject only affecting the community in Iasi*"⁶¹.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ "EVZ Journalist Threatened by Death", by Liviu Rotaru, Evenimentul Zilei, June the 30th, 2008.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ <<"Cupola" Took a Prolonged Vacation>>, by Vlad Macovei, Evenimentul Zilei, September the 12th, 2008.

⁶⁰ <<Intact Province Policy: "Let's not Pick on the PSD">>, by Ionuț Dulamița, Cotidianul, August the 25th, 2008.

⁶¹ Ibid.

But Antonesei affirms that the majority of editorials he had been printing in Ghimpele de Iasi approached central topics and that he had never been asked before to exclusively treat local topics. This incident determined Liviu Antonesei to end his collaboration with the publication.

The year 2008 saw the appearance of a new element, the zeal of the National Audiovisual Council (NAC) in following and sanctioning both commercial and political advertising spots.

The first forbidden spot⁶² was broadcasted by Antena1 and Antena3 in May during the local elections campaign. The spot was a parable showing the portraits of Romanian presidents in the last 40 years and ended with the message *“Choose your masters with care”*. The NAC considered the spot to be ‘antisocial’⁶³. NAC also said that the spot had an election message and that it could only be broadcasted during election shows. Rasvan Popescu, the President of NAC justified his decision by saying that the spot *“Led to the idea that Romanians chose their masters, which was not true. They had the spot modified now (i.e. the spot broadcasted in November). The same cartoon characters appear, but the message only says to choose carefully”*⁶⁴.

The second spot was broadcasted by Antena3 in November⁶⁵, during the general elections campaign. This spot had a message and a format similar to the first forbidden spot, the final message being: *“Choose with care...”*. NAC considered that the spot affected the physical, psychological and moral development of children, imposing Antena3 to only broadcast it after 10.00 pm.

Rasvan Popescu, President of NAC justified his decision by arguing that: *“it is a metaphor performed using some cartoon characters transmitting to the people the message to choose carefully. Accordingly, it is important to be only viewed by discerning people, who know that we do not live in dictatorship and that there is no danger to this effect. Therefore, we came up with the solution to only broadcast this spot after 10.00 pm, in order to make sure that only adults can see it”*⁶⁶.

On November the 14th, another spot was censored by the NAC. The spot was produced by Academia Catavencu and promoted the list of “tainted candidates” to the parliamentary elections in November, published by Academia Catavencu in the issues prior to the elections.

The spot named *“The Hunters’ Choir”* contained the following verses: *“There is no better pleasure in the world than hunting thieves and bandits. Enter the forest, keep on the large road, see the candidates disguised in fairness. Catching them lying, catching them stealing, writing about it in the gazette, printing about them. Not to let the world biting the bait, stamping a head of brigand. It’s an open season for pests with immunity. Watch where you shoot with your stamp. The list of tainted candidates. Starting on Wednesday in Academia Catavencu”*⁶⁷.

The NAC considered that the spot breached human dignity and the principle of correct information, prejudiced the right to one’s own image, as in the spot all candidates to Parliament were called ‘bandits’⁶⁸ and it discouraged the presence to vote. Academia Catavencu contested this decision in court, but the first trial term was only scheduled in January 2009. Academia Catavencu argued that, on the contrary, the spot was civic and mobilizing and that it guided towards a responsible vote. Academia Catavencu also affirmed that its purpose was not to denigrate, but set out to make the voters responsible in exercising their vote option. The Court of Appeal rejected the action as not grounded. The process has been appealed.

⁶² <http://www.youtube.com/watch?v=vGQ1hjSCMNw&feature=related>

⁶³ Statement of Radu Teodorescu, NAC member, printed by Ziua, May the 7th, 2008, <<“Choose your Masters Carefully”, Suspended by the NAC>>.

⁶⁴ <<Catavencu at War with the NAC and “Political Buyers” in the West of the Country for the List of Tainted Politicians>>, by A. Biro, C. Moga www.hotnews.ro, November the 13th, 2009.

⁶⁵ <http://www.youtube.com/watch?v=ixlTZcZLElw&feature=related>

⁶⁶ Ibid.

⁶⁷ www.catavencu.ro.

⁶⁸ Gelu Trandafir’s statement, NAC member, printed by Cotidianul, November the 13th, 2009, “Catavencu will go to Court against the Decision of NAC”.

In its turn, the public television TVR refused during the campaign to broadcast two election spots pertaining to the Liberal - Democrat Party (PDL) and to the Liberal - National Party (PNL), respectively. For the PDL spots, TVR invoked NAC decision no. 792 / 2008, regulating the election campaigns in the audiovisual and providing that *“the audiovisual products made by the candidates or election competitors do not contain statements which can violate human dignity, the right to one’s own image or public morals”*. One of the spots contained an affirmation of PDL candidate, Teodor Stolojan, referring to *“the PNL - PSD governance”*. The management of TVR considered that this alliance had never existed. The second PDL election clip was rejected by TVR due to an affirmation of another PDL candidate, Vasile Blaga: *“this clannish politics went bankrupt, for example the clan in Iasi: arrested Prefect, Chiurariu criminally investigated, the great Minister of, quotation marks, Education, Adomnitei, outside with him and not even Mr. David is comfortable enough with 70,000 Euros”*.⁶⁹

A third election spot was rejected by TVR as it contained images of the national flag, which would contravene to NAC decision 792/2008.

Informed by the two parties, the NAC decided that TVR had committed an abuse interdicting those election clips, mistaking the election promotion shows for election bulletins and mistakenly applying the provisions of decision 792/2008.

At the beginning of October, the NAC interdicted a commercial spot promoting the Unirea cognac, having the slogan *“Many hands make light work”*. The spot presented various workers on an archaeological site playing football and shooting the ball into a shelf with ceramics. The NAC considered that it breached the provisions of Art. 29 Let. g of the Law of Audiovisual: *“Advertising, including self-promoting ads and teleshopping must observe the following conditions: g) not to stimulate indecent or immoral conducts”*. They have also invoked Art. 10 Let. f of the same law mentioning that the NAC has the obligation to provide the protection of Romanian culture and language. Dan Grigore, one of the NAC members, affirmed in the press that the spot propagated *“certain behavioural deviations”*, that *“it’s an attempt to the cultural patrimony of a country”* and that *“the ad injures the common sense and encourages vulgar manifestations. It is an offence addressed to historians and archaeologists”*.

The MMA protested against this decision, invoking the jurisprudence of the European Court of Human Rights and the one in the United States, but the NAC did not come back on this decision.

Another commercial spot forbidden by the NAC in October, promoted Delaco yellow cheese with the slogan: *“Bad eating met its match”*. The ad showed the character, Toni Delaco, angrily entering a classroom full of pupils and demanding them to show him their snacks in their lunch boxes. The children take out everything they have to eat and Toni starts throwing their food at the garbage bin, advising them in the same key: *“Eat cheese products! They contain calcium and help you grow up”*.

The members of the NAC considered that this ad affects the moral development of underage children and summoned the spot to get legal. *“I think this is a direct instigation addressed to children. Not to mention the guidance to be a slick in Romania”*, Rasvan Popescu, NAC President, stated.

The Social - Democratic Party (PSD) MP, Mihai Tudose, requested the prohibition of the “Pillow-Man” theatre play which premiered during the *“Day and Nights of European Theatre in Braila”* festival. The MP also asked the Mayor of Braila to dismiss the Manager of the “Maria Filotti” Theatre in Braila, who staged the play. The MP argued his request by saying that the show *“abounded in licentious language, impossible to reproduce in a press conference and with sketchy clothing, where the panties were the maximum of the apparel”*⁷⁰.

Mihai Tudose admitted he had not seen the show: *“I have not seen the show, but I don’t need to see the Amazon jungle to grant an opinion about it, or to see a XXX movie to know it is porn. I don’t claim to be an art critic, and actually I’m not even up to it, but I believe that prohibition should also take place at the theatre, in order to interdict the access of youth under 18 to such shows”*⁷¹.

On November the 11th, in the middle of the election campaign, the satirical-political weekly newspaper, Academia Catavencu, disappeared from the press stands in Pitesti, Cluj and Timisoara. The representative of the distributing

⁶⁹ “TVR Rejects from Broadcasting Two PD-L Election Clips Arguing that there is no PNL-PSD Governing. Vasile Blaga Accuses the Public TV Station of Censorship”, by Dan Tapalaga, HotNews.ro, November the 3rd, 2008.

⁷⁰ “Politicians in Braila, Shook by a Theatre Play with Actors in their Underwear”, by Cristina Modreanu, Gandul, October the 15th, 2008.

⁷¹ “Radu Afrim, Censored by PSD Braila”, de Gabriela Lupu, Cotidianul, October the 14th, 2008.

company as well as various local sources confirmed the disappearance of the publication from the kiosks⁷². Its cause was the publishing of a list with the “*tainted candidates*” for the parliamentary elections in Pitesti, Cluj and Timisoara Counties.

Madalina Radulescu, the News Manager of TVR, stopped, on November the 17th, the broadcast of a piece of news describing the connections in the early '90's between Cristian David, Minister of the Interior and Administration at that time, and drug users who were his business partners. The information was launched by Pavel Abraham, former Head of the Anti-Drug National Agency and freshly dismissed from his position by Cristian David. Abraham affirmed that, in 1995, the Police discovered drugs in David's house. Subsequently, the latter confirmed during an interview granted to Realitatea TV Station that his former Dutch business partner was a drug user and that he witnessed drug consumption for several times (“*Yes, I witnessed...and there were many cases in clubs or in other public places where drugs were consumed. At the beginning of the 90's, in Romania, in the Netherlands*”⁷³).

The News Manager of TVR justified the decision to forbid the production of a material on this topic invoking the elections legislation which provides that on the entire duration of the election campaigns the “*candidates in public functions may have direct or recorded interventions (...) strictly for matters related to the exercise of their function*”.

On December the 11th, following a complaint, the National Authority for Communications decided to block the access to 40 allegedly porn websites, by blocking the IP's at the ISP level. Four nongovernmental organizations⁷⁴ protested against this measure considering that ISP blocking breaches the freedom of speech, while blocking an IP is an “*abusive and illusory*” measure. Likewise, the signatory organizations affirmed that the authorities should have previously notified the websites holders regarding the existence of problems related to the content of their sites, in order to allow them to make the due alterations, and the decision on the content should have been made by a court of justice.

As a consequence of the scandal generated by this decision, the National Authority for Communications initiated debates with the companies hosting websites or providing Internet access and with nongovernmental organizations, in order to put forward amendments to the law regarding pornography control and to create a set of internal regulations to subsequently guide the institution, in similar circumstances.

Conclusions:

Unprecedented abuses committed by the authorities during the NATO summit.

The NAC exceeds its attributions by invoking in its decisions value judgments vaguely defined by law, for the purpose of censoring advertising or election spots.

The political pressures in TVR are carried forward.

One can still notice the practice of advertising customers to threaten media institutes with withdrawing advertising as a consequence of dissatisfactions related to editorial politics.

The distribution of printed publications is one more segment vulnerable to censorship.

The press accomplice to the attempts of authorities to manipulate public opinion.

Recommendations:

The politicians and the authorities should refrain from committing actions to limit the freedom of speech. The public media companies should be protected from any influence of the political area.

The media institutions have the primary obligation to protect the freedom of speech and information even when it can harm commercial interests.

The media should act with caution when transmitting information provided by the authorities, especially when their source are the secret services; there is a high potential of manipulating public opinion with information provided by this type of sources, and the press should not be accomplice to deeds of misinformation and manipulation. All information communicated by the Government, the state

⁷² “Cațavencu was Assaulted in Cluj”, by Dorin Petrișor, Cotidianul, November the 12th, 2008.

⁷³ “Cristian David: I have Assisted Drug Consumption, but I have never Consumed”, www.hotnews.ro, November the 18th, 2008

⁷⁴ Media Monitoring Agency, Center of Independent Journalism, Association for Technology and Internet, Society for Justice SoJust

institutions or the politicians, especially around extraordinary events, should be treated with maximum care, until the journalists have checked and interpreted the information.

It is the journalists' and editors' obligation to document and publicise the cases of any kind of pressure against journalists.

2.4. LAWSUITS

The Court of Justice of the 1st District of Bucharest decided in April 2008, that Gabriel Liiceanu must receive compensations worth RON 150,000 (the equivalent of almost EUR 40,000) from journalists Sorin Rosca Stanescu, Victor Roncea and Ion Spanu from Ziua newspaper. Liiceanu accused the journalists of having "*harmed his dignity, image and reputation*" through "*injurious*" and "*defamatory*" press campaigns and statements. The lawsuit has a way of appeal and recourse; at this moment its appeal is being examined by the Bucharest District Court.

The Bucharest District Court decided in favour of Cotidianul newspaper in April 2008 in the lawsuit initiated by the Romanian Lottery, a state owned company, upon the initiative of the former Chairperson, Nicolae Cristea. The press articles investigated Cristea's activity and had him sacked by the Minister of Finance. However, Cristea started the action in court on behalf of the Romanian Lottery National Company, under the pretext that the journalistic investigations tainted the prestige of the institution, which led to the people not playing Loto 6/49 anymore and thus the Lottery profits drastically fell off. The trial fees for Cristea's lawsuit were paid by the Romanian Lottery. With the new management in place after Cristea left the Chairperson position, they decided neither to file an appeal against the sentence, which favoured the newspaper, nor to request in court the recovery from Nicolae Cristea of the trial fees spent by the company.

In August 2008, the President of Romania, Traian Basescu, sued Gandul newspaper and journalist Sanziana Ionescu. It had published in April the article "*The rebellion in PDL Constanta led by Traian Basescu's circle*". The article mentioned the name of Calin Marinescu and nominated him as <<*the person who had been imprisoned for many years ("instead of Traian Basescu")*>>. For this statement the President sued the journalist, requesting moral compensations of RON 100. The journalist explained that she had made this allegation based on Basescu's statements that the Flota case is political and that he was the target of the case in which Calin Marinescu had been sent to prison. Likewise, Basescu's party colleagues had repeatedly affirmed that the people in the Flota case are scapegoats, the real target being Traian Basescu. This was also the reason why she used the inverted commas for that statement. When she came back from her leave in September, the journalist found out that various newspapers had printed news of the alleged apologies she had given the President for her allegations. Requesting clarifications from Gandul newspaper, Sanziana Ionescu found out that the concerned newspaper had drafted a document where she was apologizing to the President, without consulting her. Therefore, the Head of State withdrew his complaint.

Once more, on September the 17th, 2008, the President of Romania summoned both the journalist Cristian Oprea and Realitatea-Catavencu Group. President Traian Basescu was offended by an article published on September the 5th, 2008 in Cotidianul newspaper. "*Traian Basescu, full recantation regarding the supervision of PD-L-PRM barter*" is the title of the article signed by Cristian Oprea, Editor of the Political Department. The President of Romania asked for the "*payment of the amount of RON 100 as symbolical compensations for the moral prejudice consisting in harming the right to honour and reputation of the undersigned, produced by the statements of the defendant, Oprea Cristian*". The Realitatea-Catavencu Group granted the journalist legal assistance. The President publicly announced that the court procedures initiated by the President against the journalist from Cotidianul can be terminated in case Cristian Oprea expresses his "*regret for the development of the situation*". The President lost the lawsuit, as the Court of Justice of the 1st District acquitted Cristian Oprea on January the 30th this year. The Head of State declared he would not appeal the court decision.

On October the 14th, 2008, the European Court of Human Rights decided that Romania had breached article 8 of the Convention, as it had not protected the reputation of politician Liviu Petrina. The European Court decided the state should pay him compensation in the amount of EUR 5000. In 1997 and 1998 the weekly newspaper Academia Catavencu published articles stating that Petrina had been a collaborator of the former Securitate. Before

appealing to ECHR, Petrina lost his lawsuit in Romania, the Bucharest District Court finding that the statements addressed to him by the journalists were within a debate of public interest and were of a general and undetermined nature. However, the European Court was not convinced that the reasons presented by the Romanian court in order to protect the journalists' freedom of speech were enough to prevail in front of Liviu Petrina's reputation. The Court found that he had been accused by the journalists, who had no evidence to support their claim, that he had been part of a repressive and terror group used by the former regime as an instrument of political police. The Court took into consideration the fact that, at the time the articles were written, there was no legal basis allowing the access to the Securitate (former Security police) files, the only official documents which could have been used as evidence for the articles in Academia Catavencu. However, the judges of ECHR considered that this situation could not be imputed to Petrina. ECHR's decision was final in April 2009, after the rejection of the re-examination application lodged by the Romanian Government.

In December 2008, Feri Predescu was sentenced by a final and irrevocable decision in the lawsuit initiated by the Mayor of Constanta, Radu Mazare. Predescu was sentenced to pay RON 50,000 moral compensations, RON 7,000 trial fees (in total, approx. 12000 euro), to apologize in writing to Radu Mazare in a public letter and to publish the court decision in a local newspaper and in one of national circulation.

Predescu was sued for bringing up the issue of the Mayor's relationship with the local mob in Constanta in a TV show where Radu Mazare was also invited. Predescu's statement was not new information, being made public by both national newspapers and online media. The Mayor had the opportunity to deny the accusation on the spot.

Predescu won at the First District Court of Justice, but she lost at the District Court and the Court of Appeals of Constanta maintained the decision. Predescu filed a complaint with the European Court of Human Rights.

The petitions supporting the journalist gathered over one thousand signatures. There were also supporting reactions from journalists and protest reactions from the national and international organizations defending the freedom of speech and of the press. Subsequently, the local media in Constanta County published an article accusing one of the judges who signed the final decision of being in a conflict of interests⁷⁵.

Conclusions:

The award of moral damages may inhibit the exercise of the right to free speech when their amount is imbalanced in relation to the committed deed.

Recommendations:

The politicians and the representatives of the authorities should prove a higher degree of tolerance to the critics they receive from the media, as their activity is one of high public interest.

The high-ranking officials of the state should refrain from suing the journalists. They have at hand other means for countering defamatory information about them that is made public (e.g. public speeches, press conferences etc.).

2.5. LABOUR CONFLICTS

The Administration Council of the public television TVR dissolved on June the 4th the Editorial Production Department, managed by Cezar Ion within the Programs Direction, and founded instead a new structure, the Editorial Direction. This measure dismissed Cezar Ion as Department Manager. TVR proposed him to return on his previously held position of Programs Producer. Cezar Ion objected the decision in court, considering to have been abusively and illegally dismissed, without the observance of legal procedures. On January the 14th, 2009, the Bucharest Court gave satisfaction to the journalist, and provided the reemployment of Cezar Ion on the position of Manager. It also decided that the public TV station should pay Cezar Ion the salaries for the period he had been removed from his position of Manager of the Editorial Production Department (September 2008 - January 2009), as well as the trial fees.

⁷⁵ "Beatrice Maris, Judge Receiving Land as a Gift from Mazare", Ziua de Constanța, March the 25th, 2009.

An almost identical case is the one of the former Manager of the News Direction in TVR, Rodica Culcer, whose position was restructured through the disbandment of the concerned Direction and its transformation in the Direction of Information Programs and Sport. The management of the Direction was unaltered; Rodica Culcer kept her position, although she lost all her editorial attributions, which were transferred to other departments. The management of the Direction was only to have managerial duties. At the beginning of 2008, Culcer sued the management of TVR arguing that her position had not been changed, but dissolved. Culcer also objected in court against the contest organized by the TVR for the position of Manager of the News Department, as the internal regulations of the TVR were not met. Bucharest Court rejected Rodica Culcer's actions but, at the beginning of February 2009, the Court of Appeal cancelled her dismissal decision from the position of Manager of the News Direction and established that the decision should have been issued after her having signed the additional paper to her Individual Labour Contract, expressing her consent regarding its alteration.

The Court of Appeal rejected the other application ends: to reinstate her in the position of Manager of the News Department, to perform the corresponding mentions in her work contract, to cancel the decision to organise the contest for occupying the position of Manager of the News Department within the Direction of Information Programs and Sport of the Romanian Television Society.

At the end of March 2009, Culcer lodged a new action at Bucharest Court, requesting the cancellation of the previous decisions, her reinstatement in the position of Manager of the News Direction, and TVR's obligation to grant her editorial duties related to her position of Manager of the News Department.

Marius Draghici, journalist at Evenimentul Zilei, summoned Ringier Romania SRL for its failure to meet several remuneration rights, amongst which the failure to pay the minimum salary and other rights in the collective labour contract, harassment at the work place, but also censorship. Short time after the summoning, Ringier cancelled the journalist's copyright contract, diminishing his income by 70%. The management of Evenimentul Zilei newspaper refused to print five articles produced by the journalist, who regarded this as censorship, and his signature was erased from various materials posted by him on the newspaper website. The five materials which Evenimentul Zilei refused to print are:

Allowed by SRI, SIE and MIRA: "Smart Boy" Buzaianu has Swiss Immunity;

Big Fortune, "Small" Statement. Phantom-Land in the Fortune of a Police General;

Iran, beyond Politics and Islam;

Iran, on Two Voices - "Crime against Jews Took Place in Europe";

The International Day Dedicated to the Memory of Holocaust Victims - A Survivor from Transnistria Talks at the UNO.

Informed by the journalist, the MediaSind Trade Union Federation found that the "*employee Marius Draghici was constrained to sign an additional paper whereby he was waiving all his legal rights provided in the Unique Collective Labour Contract at the level of Mass Media Branch. Also, the minimum salary on the branch, the hierarchy coefficients and the legal bonuses were not provided in full to the journalist*"⁷⁶.

Thus, MediaSind informed the Ministry of Labour - Labour Inspection to check whether any breaches of the law were committed. The relevant public authority carried out an investigation obliging S.C. Ringier Romania SRL to pay all the salary rights to Marius Draghici and to all the employees of the publications in Ringier Trust as well. Also, the inspectors found that the registration in each employee's Individual Labour Contract of a non-competition clause breached the provisions of Art. 21 in the Labour Code and the Provisions of the Collective Labour Contract at the Level of Mass-Media Branch. This clause provided that: "*The employee must not conduct, in his/her own interest or a third party's interest, an activity competing to the one conducted for his/her employer or not conduct any activity in favour of a third party found in competition with his/her employer*". Consequently, the Labour Inspection decided that the employer had to pay its employees, according to the law, all their monetary rights for the last three years of activity prior to the control report.

Contacted by MMA, the Editorial Management of Evenimentul Zilei did not want to make any additional remarks related to the reason for not publishing the five articles, arguing that it did not want make a public statement as long as they made the object of a lawsuit.

⁷⁶ MediaSind Release, March the 2nd, 2009.

During 2008 and at the beginning of 2009, the worldwide economic crisis also affected the Romanian media, especially by the drastic decrease of the advertising volume (according to Adevarul newspaper, the investments in TV advertising decreased by 11% in the first 3 months of 2009⁷⁷). The response of media ownerships to economic problems varied from staff layoffs, as in the case of Romania Libera newspaper and of the MediaPro, Publimedia International and Ringier groups, to salary cuts (Intact Trust) to the closure of several publications (Compact and Unu newspapers).

Conclusions:

The journalists summoning the abusing and illegal measures of their employers are given satisfaction in Court, in the majority of cases.

The public TV station still uses organizational tricks with the obvious aim to harass the uncomfortable employees.

Some labour conflicts have repercussions on the editorial content.

The economic crisis starts to strongly affect the media employees.

Recommendations:

Pay attention when signing the copyright contract; it has been used as a lever to blackmail the journalists and to avoid the provisions of the Collective Labour Contract.

Solving labour conflicts should not affect the citizens' right to information.

Journalists should not accept those labour contracts containing clauses which contravene the Collective Labour Contract, and the employers should not try to impose them, forasmuch as they are illegal.

The journalists should consult attorneys with a background in employment law or appeal to the services of media trade unions when signing contracts with their employers or in case of conflict with them.

2.6. ETHICS AND SELF-REGULATION

On June the 26th, the press announced that a French teacher, Principal of a high school in Zalau, resigned from the General Education Degree Board after the appearance on the Internet and porn websites of various short movies containing erotic scenes with her as a protagonist, movies seen by the pupils of the high school she was teaching at. The erotic movies and photos of the teacher were repeatedly broadcasted both during the news programs of the main TV stations and on various websites. In the majority of these images, the face of the teacher and a great part of the image was blurred, but in some cases the teacher's face was visible. The press materials did not mention who had posted the concerned movies, but indicated that they had been shot in the intimacy of her conjugal home, showing the teacher and her husband. However, some press institutions speculated this situation, issuing various hypotheses related to the source of these movies, some newspapers even launching the hypothesis that they had been published by the teacher herself.

Starting with the appearance of the first pieces of news regarding this case, on June the 26th, the teacher's identity was indirectly brought into the open by the mention of the school name where she was Principal, although her name was explicitly mentioned only the following day, on June the 27th. The press also printed her underage daughter's name.

Additionally, various press materials appeared with the title 'porno professor', 'porno teacher', 'sexy teacher', although no evidence existed that the person incriminated with pornographic conduct had done anything else but having a sexual life with her husband. Thus, the teacher's stigmatization was promoted by a great part of the press, from tabloids to general newspapers, from general televisions to the news televisions with a presumed quality target audience. Mediafax News Agency also launched a piece of news with the title "*Porn Teacher in Zalau, in Leave without Payment*".

⁷⁷ "Romanian Televisions, Poorer in Advertising", by Iulia Bunea, Adevarul, April 14th, 2009.

The often moralizing speech of the press (speech accusing the teacher for this entire 'shameful' scandal) obviously contradicted its practice to abundantly post in newspaper pages and on Internet websites excerpts from the erotic films with the teacher or even direct links to websites where those movies could be found.

De facto, by broadcasting these images, exclusively belonging to the private scope of the teacher's life, all the media did was to seriously contribute to her career damnation.

Many of the important media institutions lacked professionalism, did not regard the right to private life and to the protection of intimacy. They treated in a sensationalist manner a topic requiring additional attention and consideration, they threw in the open a matter related to private life. These media institutions did not justify the presence of a public interest for publicizing the case, they gave verdicts and often played the role of a moral court. Additionally, they printed porn images and made public the websites containing the previously mentioned porn movies, they labelled and stigmatized, launched scenarios on the grounds of unverified hypotheses or unnamed sources.

At the beginning of June, a family in Neamt County discovered that their 11 year old girl was pregnant. At her parents' questions, the little girl said that she had been raped by her 19 year old uncle. The media largely recounted this topic and a debate arose at the state authorities' level concerning the opportunity and legality of an abortion, thus amplifying the public character of this case. In the end, the little girl was operated in London, the surgery being a success.

A great part of the media brought into the open the identity of the victim, either directly, by printing her name, or indirectly, by mentioning the name of her uncle, of the village the victim came from and identifying the classroom where she studied. One of the persons having made public the underage child's name was Minister of Health Eugen Nicolaescu, a piece of information disseminated without discernment by a part of the media.

Journalist Ion Cristoiu announced his withdrawal from his activity of permanent guest of the political analysis show broadcasted by Antena3 TV station, "Synthesis of the Day", as well as from the "Press Hour" talk-show of Antena2 TV station, motivating that the Conservative Party has entered the Government. This party was founded and until recently led by Dan Voiculescu, whose family also holds the Intact group, which comprises the concerned TV stations. Cristoiu invoked a potential conflict of interests, considering that his participation to the shows might mean that he "*plays into his employer's hands*".

In October, three journalists from the Star mundane publication (Ana Gheorghe, Georgiana Carp, Stefania Stancu) were restrained for blackmail. They were caught by Police agents from the Criminal Investigation Service holding EUR 5,000, money marked by the Police agents. The amount was offered by Alin Ionescu, blackmailed with the publication of several photos presenting his wife, the singer Cristina Spatar, in nude hypostases. The three journalists admitted their deed at the Police hearings.

Cotidianul daily newspaper made public on September the 9th⁷⁸ an internal e-mail from the editorial office of Antena 1 addressed to territorial editorial offices, requesting them information on the candidates to the parliamentary elections which were to be used for concluding some contracts to promote them. In equal measure, the territorial offices were recommended to promote the candidates in various shows during the election pre-campaign period in order to enable the conclusion of these election promotion contracts, the Station Managers being offered 10% bonuses. The e-mail was signed and sent by Dana Aparaschivei, Sales Network Manager of Antena1. She denied the authenticity of the e-mail, saying that someone might have broken her e-mail box: "*I would also like to know who the sender of such an e-mail is. It is extremely serious: it is either something against me, or it is something infamous. Who would assign to a beginner - I have only been working for a month here - an election matter*".

Conclusions:

Unprecedented degradation of the journalistic act, by neglecting elementary ethical and professional norms.

Quest for audience transformed in the absolute criterion of valuing the journalistic act.

Recommendations to journalists and editors:

⁷⁸ "Internal Antena 1 Document: Providing Political Services for Money", by Cosmin Popan, Cotidianul, September the 9th, 2008.

Read and assimilate the provisions of the ethical codes you adhered to (directly or indirectly through the editorial office).

Protect the private scope in cases not of public interest.

Judge each and every case, without copying the reactions of the competitors on the market.

Protect the identity of victims and underage children.

Discuss controversial printing decisions in the editorial offices councils, organize discussions regarding professional ethics in round tables with representatives of the industry, of the academic environment or of professional and media organizations.

Do not take part in advertising contracting or blackmail.

2.7. MISCELLANEOUS

President Traian Basescu carried forward his aggressive assessments of commentators and certain media institutions. The President stated in March, referring to Commentator Cornel Nistorescu: *“Vîntu’s trust also contains juke-boxes. More precisely, former Managers of «Evenimentul Zilei» newspaper”*. The topic of the juke-boxes was afterwards resumed over and over again by Traian Basescu, his targets being especially journalists in the Intact Trust, controlled by the Voiculescu family, out of which he named *“Victor Ciutacu, the juke-box on Euro”*. Invited on the 9th of September at the TVR1 public TV station, the President declared: *“The campaign against the Head of State related to the PD-L episode with Vadim showed how these two trusts are to stand and behave, through the people they pay, during the campaign. Lying will be their fundamental axis, lies regarding people Vantu and Voiculescu do not sympathize with”*. During the same show, Traian Basescu attacked the persons who denigrated him *“in order to serve their master for the money”*. *“People who, otherwise, when shutting up, their lips read propaganda smelling of Rompetrol and another one smelling of money from the National Investment Fund”*. Mircea Dinescu was also amongst the people regarded by the President’s affirmations: *“See people claiming to have been dissidents, but smelling of gas when talking”* (March 2008).

Adevarul newspaper and Realitatea TV station revealed that three publications in Giurgiu County (Giurgiu Express, Jurnal Giurgiuvean and Informatia de Giurgiu) accredited over 450 persons as election journalists and correspondents during the parliamentary elections, many of them being politicians, local authority representatives or high public servants in the county. According to the quoted sources, these publications are well-known for their political sympathies or affiliations. One of them is edited by a foundation of the Liberal National Party (the Romanian Association for Freedom and Development).

Amongst the people accredited as journalists could be found: the Chairperson of Giurgiu County Council, the Head Commissioner of the Giurgiu Financial Guard, the Chairperson of the National Agency for Employment (ANOFM), the Deputy-Mayors of Giurgiu Municipality etc. Asked by the reporters of Adevarul regarding the great number of election correspondents, Mimi Dezrobitu - Coordinator of Giurgiu Express bi-weekly newspaper - answered: *“It is a great number of people as our bi-weekly newspaper is edited by the Romanian Association for Freedom and Development. Whom we chose is our business. Those persons will keep in touch with the editorial office”*⁷⁹.

Media Monitoring Agency and Pro Democratia Association condemned this situation which *“compromises the profession of journalist, and is a serious debasement of the press right to accredit journalists at polling stations for the purpose of informing the citizens and signalling potential abuses or breaches of the law. Or, accrediting such representatives of the power or politicians is an abuse and gives birth to legitimate concerns regarding the correctness of the election process in Giurgiu County”*⁸⁰.

In its turn, the Romanian Press Club condemned the attempt of some politicians and local officials to use the status of journalist in such a politically sensitive period and considered that such practices were *“an aggression against the profession of journalist”*⁸¹.

⁷⁹ “Heads of Giurgiu County - Journalists Accredited at Elections”, by Oana Iurascu, Razvan Popa, Bogdan Costache, Adevarul, November the 29th, 2008.

⁸⁰ www.mma.ro

⁸¹ www.pressclub.ro

The Permanent Elections Authority (AEP) stated that there was no breach of the law in issuing such a large number of accreditations. AEP did not have the legal possibility to check the accredited persons.

A contemporary art exhibition organized by the Romanian Cultural Institute (ICR) in New York went over into a political and media dispute topic. The exhibition entitled "*Freedom for Lazy People*" opened on June the 18th and immediately aroused reactions in the Romanian press, but also amongst the Romanian community in New York. One of the exhibited objects, a pink pony toy having a swastika drawn on it was considered by some journalists and members of the Romanian Diaspora in New York as an element of anti-Semite propaganda. Thereby, they informed the New York Police Department and the Anti-Defamation League. The Police found that no law was breached, as it was about an artistic act. The Anti-Defamation League refused to push the application, considering it "*not grounded and with an obvious misinforming and manipulative character*"⁸².

The subject was intensely debated in Romania, a significant part of the press launching a campaign against the exhibition, which was considered as unworthy to represent Romania. The campaign also targeted the ICR and its Manager, Horia Roman Patapievi, known as a supporter of President Traian Basescu. The message was immediately taken over by the political environment, the Senate announcing in August the incorporation of a special committee for investigating the activities of ICR, board which self-dissolved in October, even before having started its activity.

Patapievi and Cristian Neagoe, Communication Coordinator of ICR New York, notified the National Audiovisual Council to analyse "*false and manipulating*" information presented by the Antena3 TV station, as well as because the concerned TV station did not ask for their opinion related to the presented information. The NAC requested Antena3 to offer the two petitioners a right to response. It must also be mentioned that Antena3 belongs to the Intact Press Group, owned by the Voiculescu family, managed by Dan Voiculescu's daughter. Dan Voiculescu had in various moments tough dialogues in the media with President Traian Basescu.

Other politicians and journalists vehemently criticized the works exhibited by contemporary artists, such as Alexandru Radvan, Sorin Tara and Benedek Levente, within exhibitions in our country or abroad, some of them organized as well with the support of the ICR. Gardianul newspaper printed various articles accusing Benedek Levente of having brought prejudices to the image of Romania through his art.

One of the criticized exhibitions, Benedek Levente's "Euromaniac", contained "Romania with Labia" amongst the works. The gallery hosting the exhibit was vandalized on September the 22nd by a group which journalist Victor Roncea and his brother, George Roncea, were part of. They filed a criminal complaint against the Fine Artists' Union in Romania, Workshop 35 and Benedek Levente, accusing them of destroying Romania's image as a sovereign state in relation to a foreign power. The criminal complaint mentioned the crimes of: compromising certain state interests, provided and punished by Art.168 in the Criminal Code, or destroying, depredating or acquiring cultural values, provided and punished by Art. 360 in the Criminal Code. "*We vehemently protest against the aggression and violation of human intimacy by the so-called «artist» of Hungarian origin, who committed a deed analogue to the criminal aggressions on the human soul, life and intimacy made by the Communist-Bolshevik regime (the coryphaeus of this criminal regime, Lenin, an aggressive homosexual, encouraged promiscuity and sexual aberrations)*", also reads the criminal complaint. Likewise, the Civic Media Association filed a complaint against Benedek Levente, the organizers of the "Euromaniac" exhibition at Atelier 35 and the management of the Fine Artists' Union, for the crimes of public offence brought to religious symbols, defamation actions and religious embroilment, prohibited by Law no. 489/2006 from December the 28th, 2006 regulating religious freedom and the general regime of creeds and for the crime of offence brought to markings of Romania, provided and punished by Art. 236 in the Criminal Code.

Conclusions:

The media confronts major ethical problems related to subjective media campaigns, but it is not the duty of authority representatives, especially of the ones with high state functions, to interfere in the trade regulations. Any such critical appreciations issued by high ranking officials at the address of the media can be perceived as political pressures. The media is a self-regulating business.

⁸² "The Senate Looks for Swastika under Ponytails", by Andra Matzal, Alexandra Olivotto Cotidianul, August the 5th, 2008.

The media was transformed into the advocate for limiting the freedom of expression in Arts.

Recommendations:

To editorial offices: do not legitimate or accredit as journalists persons activating in other fields (political, local authorities, advertising etc). It is compromising the profession of journalist in front of the public opinion.

Art works should not be censored, especially by representatives of the authorities. The public and the artistic environment are the only ones to decide in this case.

2.8. LEGISLATION

Criminal Code and Criminal Procedure Code

On January the 28th, 2008, the Judicial Committee of the Chamber of Deputies adopted an **amendment to art. 168/1 of the Criminal Code** which would have punished with imprisonment from 1 to 5 years *“the communication or dissemination of data, false information or falsified documents through any means of mass media, if the deed is liable to affect the security of the state or Romania’s international relations”*. The amendment had been the initiative of the Social-Democrat MP, Eugen Nicolicea. Media organizations and human rights organizations opposed this initiative. They argued that the national security of Romania enjoyed enough protection under special legislation, as well as under other articles in the Criminal Code. They considered that *“<Romania’s international relations> is a purely political concept and therefore, subject to change; its place is not in the Criminal Code and it cannot be protected under criminal provisions, but only through a solid foreign policy”*⁸³.

The amendment brought the text of the Criminal Code to the same content it had in 1996, revalidating an article introduced at that time by the Party of National Unity in Romania (PUNR). The nongovernmental organizations expressed their fear that the amendment could have been used against critical voices in the political life or in the civil society, as it had been used during the Nastase administration. That version of article 168/1 allowed the arrest of a person in 2002. Ovidiu Iane was then kept in Police custody for three and a half days after having transmitted by e-mail a text containing accusations of corruption regarding the Prime-Minister at that time, Adrian Nastase (the so-called Armaghedon 2 report, in fact a compilation of media articles). Ovidiu Iane was accused of *“disseminating false information which affected national security”*.⁸⁴

In its current form, after having been amended in 2006, art. 168/1 of the Criminal Code only sanctions the dissemination of false information which jeopardizes national security - a provision which, although objectionable and constituting yet another possible threat for the right to the freedom of speech, is more precisely formulated than the one proposed by the Judicial Committee in January 2008⁸⁵. The amendment proposal of the Judicial Committee has been subsequently withdrawn.

During the year 2008, the Ministry of Justice worked at the **drafts of the Criminal Code, Criminal Procedure Code, Civil Code and Civil Procedure Code**. Various intermediary forms of these drafts could be found on the website of the Ministry of Justice during the year 2008. At the beginning of the year 2009, the Government forwarded all these drafts to the Parliament for emergency debate, intending for all the four codes to be adopted by May the 15th. Nongovernmental organizations accused that the drafts had been drawn up without the observance of Law no. 52/2003 (the law of decisional transparency), that the impact studies were missing, as well as other studies and approvals according to Law no. 24/2000 regarding norms of legislative technique. The Codes have also been severely criticized for their content.

⁸³ <<“Dissemination of False News” - a Censorship Instrument of Totalitarian Inspiration >> press release signed by the Media Monitoring Agency, APADOR - CH, Center for Independent Journalism, Romanian Center for Investigative Journalism, Convention of the Media Organizations; January the 29th, 2008 - www.cji.ro, www.apador.org.

⁸⁴ Ibid.

⁸⁵ Ibid.

Regarding the press, the crimes concerning defamation (slander and libel) have been removed from the draft of the Criminal Code but a crime regarding the breach of private life has been introduced. The code draft also contains some other crimes affecting the freedom of speech: compromising the interests of justice, communicating false information, war propaganda, disclosing secrets jeopardizing national security.

In the Civil Code draft, the Ministry of Justice introduced a series of provisions affecting the journalists' activities without consulting the professional organizations of the media, as it should have been legally and morally compelled. These provisions regulate the right to private life, personal data protection, respect owed to the deceased person, the right to reply and rectification. The provisions were criticized by the media professional organizations because, formulated as such, they restrict the freedom of the press. The professional media organizations requested the removal of these provisions, and for those which cannot be removed, they requested the introduction of the public interest exception and of the defence of good faith, two key elements found in the case law of the European Court of Human Rights⁸⁶.

Audiovisual Legislation

One of the most hilarious and at the same time disturbing bills was adopted in June 2008 by the plenum of the Senate. Through the draft initiated by the Greater Romania Party MP, Gheorghe Funar, and Liberal National Party MP, Ioan Ghise, the television and radio stations would have been compelled to broadcast in their news programs, equally **positive and negative news**. The law draft amended art. 28 of the Audiovisual Law no. 504/2002, introducing a new paragraph with the following content: "*The news programs of the television and radio stations contain news with positive and negative topics in equal amounts*".

The Plenum of the Senate adopted the bill after it had received a negative notice from the Committee on Human Rights, Cults and Minorities, and, on the other hand, had received a favourable report from the Committee on Culture, Arts and Media. The law had been previously rejected by the Chamber of Deputies, but the Senate was the decisional chamber in this case. The project was to be forwarded for promulgation to the President.

The journalists, media organizations and the National Audiovisual Council protested, showing that the bill breached Romania's Constitution and the European Convention of Human Rights. The initiative had a considerable media "success" in foreign publications as well. OSCE and the nongovernmental organization Reporters without Borders also protested against this bill. A group of MPs, members of the Liberal - Democratic Party, filed a complaint with the Constitutional Court. The judges made a decision in July 2008, stating that the draft law was unconstitutional. The MP Ioan Ghise, declared to the press that he does not waive his project to amend the audiovisual law. Ioan Ghise is a Senator in the new Parliament, elected at the end of 2008.

Senator Gheorghe Funar also distinguished himself in 2008 by initiating the bill "for the peace of Romanians". The project contained a series of absurd provisions, such as prohibiting the establishment of parties on ethnical criteria. Amongst others, the project prohibited TV programs in the Hungarian language on public radio and television. The bill was rejected by the Chamber of Deputies. Gheorghe Funar is no longer a member in the new Parliament.

At the beginning of the year 2008, the National Audiovisual Council debated a new version of the **draft law amending the audiovisual law**. The project forwarded by the NAC to the Ministry of Culture proposed that the digital broadcasting licenses be automatically granted to the operators who had an analogical emission license and not by contest, as agreed at similar debates organized by the NAC in 2006 ('opening up the market'). Likewise, the operators of multiplexes were to be mutually appointed by radio stations broadcasting on each multiplex and not by organizing an auction. The project also proposed a series of amendments regarding the ownership in the audiovisual media. The first version of the project abrogated art. 44(9) providing that "*A natural or legal person can be a direct or indirect investor or majority shareholder at one sole audio-video communication company, and can hold no more than 20% of the joint stock in other such companies*". The version forwarded to the Ministry of Culture added to the possibility of abrogation the one of a 50% increase in the joint stock held at the second audio-video communication company.

Besides these controversial amendments, the bill introduced a series of absolutely necessary changes for the transition to digital TV, as: redefining the terms used on the market (audiovisual media service, on demand

⁸⁶ For more details related to the code drafts, see www.opriticodurile.ro, the website of the campaign of a nongovernmental organization coalition militating against the adoption of these bills, without an extensive debate, both in the Parliament and outside it.

audiovisual media service, audiovisual commercial communication etc.), adopting the regulations allowed by the Directive for “Product Placement” and introducing the flexibility of the duration and placement of ads. The project also introduced a more accurately defined requirement of transparency for the media companies: information on shareholders’ structure, management structures and financial results of radio stations.

At the end of its mandate in November 2008, the Tariceanu cabinet was preparing to adopt an emergency ordinance to amend the audiovisual law. The emergency ordinance had been initiated by the Ministry of Communications and Information Technology (MCIT) and aimed to amend the audiovisual law by introducing radio and television digital services with terrestrial transmission. The draft text of the Emergency Ordinance invoked the imminence of the deadline agreed on by Romania for the transition to the radio and television digital terrestrial services - year 2012 - stating that it creates “*an exceptional situation, regulation of which cannot be delayed*”. The National Audiovisual Council and the Convention of Media Organizations opposed this Ordinance, pointing out that there was already a bill amending the Audiovisual Law (the project mentioned above) which was initiating the transition process to digital services. The bill, in public debate at the Ministry of Culture, was much more complete, had been drafted by consulting the main actors involved in the digitalizing process, had been publicly debated and had received the approval of the resort ministries (Justice, Finance), including that of MCIT.⁸⁷

The MCIT ordinance was also criticized because its provisions allowed the Government or its subordinated units to have control over the entire mechanism of granting the operation licenses of digital frequencies (drafting the strategies, drafting the terms and liabilities, developing the selection process, establishing the license fees, allotment decision). Additionally, the Ordinance made no correlation between the technical aspects of the transition to digitalization and the aspects related to the radio and TV programs to be distributed and/or retransmitted on digital terrestrial systems, thus shading the public’s interest in public information, an interest served by the transition to digital services. The Tariceanu Government was accused that the hurried adoption of this ordinance had been stimulated by business interests⁸⁸. In the end, the Tariceanu Government adopted through Emergency Ordinance the audiovisual bill then being debated at the Ministry of Culture. The Ordinance entered parliamentary debate in 2009.⁸⁹

In September 2008, the NAC invited the radio and television stations and the journalists’ organizations to debate the **decision regarding principles and rules for regulating the election campaign for electing the Chamber of Deputy and the Senate, in the audiovisual media services**⁹⁰. One of the provisions which generated hot disputes was related to the means of payment for election shows. The amendments to the elections law adopted in 2008 introduced the possibility for broadcasters to establish a unitary fee per show and per time unit⁹¹. This was interpreted by most of the broadcasters present at the debates as a possibility to set tariffs for all the election shows, including for the election debates. The NAC pleaded for maintaining journalists’ equidistance and independence and decided that the election debate shows, news programs and news shows, with a focus on elections, cannot be paid or sponsored. However, there were suspicions that the provisions of the NAC decision were eluded during the campaign by some stations, which charged fees for the appearance of candidates in debate shows hosted by famous journalists⁹².

⁸⁷ “Convention of Media Organizations Protests against the Regulation of the Transition to Digital Television through Emergency Ordinance”, November the 13th, 2008, www.cji.ro.

⁸⁸ “Tariceanu Tries to do us Digitally”, by Mircea Toma, Academia Cațavencu, November the 19th, 2008.

⁸⁹ “Convention of Media Organizations Protests against the Regulation of the Transition to Digital Television through Emergency Ordinance”, November the 13th, 2008, www.cji.ro.

⁹⁰ Decision no. 792 was adopted on September the 30th, 2008.

⁹¹ Law no. 35 of March the 13th, 2008 for electing the Chamber of Deputies and the Senate and for amending and completing Law no. 67/2004 for electing the authorities of local public administration, of Law of Local Public Administration no. 215/2001 and of Law no. 393/2004 regarding the Statute of Locally Elected Persons, with amendments and completions brought by the Governmental Emergency Ordinance no. 66/28.05.2008 and no. 97/27.08.2008.

⁹² See article “I have Negotiated for a Candidate. How to Appear in a TV Show with 5,000 or 20,000 Euro” by Attila Biro, Dan Tapalaga, HotNews.ro, November the 27th, 2008.

The NAC continued in 2008 to monitor the **faulty usage of Romanian language in the audiovisual**. The NAC had concluded in 2007 a collaboration agreement with the Linguistics Institute, “Iorgu Iordan - Al. Rosetti” of the Romanian Academy in order to develop a research on the manner grammar norms of Romanian language are met by broadcasters.

Grounding on article 88 of the Audiovisual Content Regulation Code - “*The radio broadcasters must provide the observance of orthographic, orthoepic and morphological norms of Romanian language, established by the Romanian Academy*” - the NAC went on sanctioning the stations for faulty using Romanian language. We keep to the opinion previously expressed in the FreeEx Report, i.e., if the NAC considers that sanctioning stations for using Romanian language is absolutely necessary, these decisions must be made with the maximum of attention and care.

The Functioning Law of Public Radio and Television Services

Not even in 2008 the parties in the former D.A. Alliance, the Democratic Party (the current Liberal Democrat Party) and the Liberal National Party, have honoured their election promise made in 2004 to reform the law of public radio and television⁹³. The consequences were to be seen in 2007 when, for the first time in the history of the public television, a politician was appointed Chairperson-General Manager of this institution.

In May 2008, the members of the Committee on Culture, Arts and Mass Media of the Senate rejected a law draft initiated by Deputy Raluca Turcan, and voted by the Chamber of Deputies in May 2006. After it had been adopted by the Chamber of Deputies, the draft law was debated in the Mass Media Committee of the Senate, but nothing happened in two years time.

The process of modifying the law of public radio and television had been initiated in January 2005 upon the initiative of a group of nongovernmental organizations and of journalists from the two editorial offices. Raluca Turcan took over the initiative of civil society and had various law initiatives for this purpose, in 2005 and 2006, the last project being the one having succeeded in obtaining political support in the Chamber of Deputies.

At the beginning of 2009, Raluca Turcan, PD-L Deputy and Chairperson of the Committee on Culture, Arts and Mass Media, initiated a debate concerning public radio and television, announcing her willingness to take over the reform process of that law, by reintroducing in public debate the project rejected by the Senate in 2008.

We remind here, as we have in each annual report published by the FreeEx program since 2005 on, the main changes to the law which the organizations defending the right to the freedom of speech plead for:

- separating the positions of General Manager (executive position) and Chairperson (strategic decision position); diminishing the political influence in the Boards of Directors, by introducing the possibility that nongovernmental organizations propose members (meeting upon nominalization the competence criteria established for the presence in BD);
- introducing a number of incompatibilities with the capacity of becoming a BD member (such as the impossibility of the presence within the BD of a person holding a management position in a political party);
- removing the possibility to automatically dismiss the Board of Directors when the Parliament rejects the annual report.

We also reiterate that, besides the public radio and television law, measures must be taken in order to harmonize the internal regulations and statutes of the Romanian Radio Company and the Romanian Television Company with the audiovisual legislation, with Romania’s Constitution and with other laws they may conflict with. These regulations and statutes must be brought to the open on the website of the institution.

Elections Legislation

The Central Elections Office decided in November 2008 that the observers of nongovernmental organizations, as well as the representatives of mass-media institutions accredited at the elections on November the 30th, 2008, have access to the polling station “*only in the spaces specially arranged for this purpose*” (art. 1) and “*may only stay in the space set for this purpose in the voting hall by the Chairperson of the election office of the polling station*” (art. 2)⁹⁴.

⁹³ Law no. 41 of June the 17th, 1994 regarding the organizing and functioning of the Romanian Radio Company and the Romanian Television Company.

⁹⁴ Decision of the Central Election Office 47/D/6.11.2008.

Two nongovernmental organizations protested against this decision, considering that the presence of observers and journalists is essential for preventing potential abuses from the Chairpersons of the elections offices in the polling stations. The Central Elections Office maintained its decision.⁹⁵

Legislation in the Field of Security

A draft Law regarding the statute of the information officers was being debated in 2008 in the Chamber of Deputies⁹⁶. The project was introduced in the Chamber of Deputies in 2007, after its adoption by the Senate⁹⁷. In the version introduced in the Senate by its initiators, there was an interdiction regarding the “*usage of representatives and personnel of the Parliament, Executive or the Judiciary, as well as of mass media organizations, trade unions, political or religious organizations, duly incorporated in Romania, as undercover officers of information and protection authorities*” (art. 48, paragraph 3). This provision was removed from the draft law adopted by the Senate, upon the pressures of the information services representatives⁹⁸.

At the debates in the Chamber of Deputies, the Media Monitoring Agency requested, in its turn, to the Judicial Committee, the introduction of an article regarding the incompatibility between activating as an information officer and working undercover in the media. “*The journalist has the deontological obligation to tell the truth in the virtue of the public right to information. The journalist is also compelled not to work for the interest of third parties and to protect his/her sources. An information officer working undercover as a journalist in media would be in a serious conflict of interests, as he/she would not act according to the deontological code of the journalist, but he/she would have to meet the legislation regulating the activity of the information officers. Thus, in his/her capacity as a journalist, he/she would be in the situation to lie to the public and sources, all this having consequences both on the credibility of the media, and on the credibility of information services. (...) The Liberal National Party requested in the debates launched in 2006 on the topic of redefining the laws regarding national safety, that they contain particular provisions prohibiting such practices*”, MMA said in its letter to the Judicial Committee. The draft was being still debated at the Committee.

Conclusions:

The political parties continue the tradition of promoting legislative initiatives with a negative impact on the freedom of speech and on the right to access to information.

Important legislative initiatives are promoted without a previous public consultation, totally ignoring the law of decisional transparency no. 52/2003.

Lack of political will for reforming the public radio and television law.

Recommendations:

Consolidated reactions of the media community and of the human rights organizations regarding dangerous legislative initiatives should exist.

⁹⁵ “In the Yard, if Possible! The Transparency of Elections Endangered by Excessive Regulations” communiqué on November the 10th, 2008 of Pro Democratia Association (APD), Media Monitoring Agency (MMA) and Center for Independent Journalism (CJI).

⁹⁶ PL-x 690/2007.

⁹⁷ L 250/2007.

⁹⁸ “Military Hierarchy will Disappear from the SRI”, by Andreea Nicolae, Costel Oprea, Romania Libera, October the 11th, 2007.

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