

F R E E X R E P O R T

M E D I A

F R E E D O M

I N R O M A N I A

2 0 1 2



- Member of the Reporters without Borders Network -
Bucharest
2013

This report has been drawn up as part of the **FreeEx program of
ActiveWatch - Media Monitoring Agency.**

The **FreeEx** program's aim is to contribute to the protection and promotion
of freedom of speech and media freedom.

The program was launched in 1999.

ActiveWatch publishes annual reports
regarding the status of media freedom in Romania.

This report is financed by the Open Society Institute (OSI).

The contents of this report do not necessarily reflect the opinion of the OSI.

The english translation of the report is a shortened version of the Romanian language report

Authors:

Liana Ganea, Maria Popa, Răzvan Martin,
Sorina Vasile, Laura Ștefănuț, Ștefan Mako, Victor Ilie,
Vlad Ursulean, Radu Ciorniciuc,
Ana-Maria Telbis, Cosmin Dumbravă, Ovidiu Vanghele

**Many thanks for the assistance provided to the FreeEx department
during the entire year, by:**

Mircea Toma, Dan Mihai, Ștefan Câdea, Bogdan Manolea
Diana Hatneanu, Nicoleta Popescu

Many thanks to:

The Romanian Center for Investigative Journalism, the "Journalist's House",
the European Human Rights Association, the Romanian Association of Technology and Internet,
the Center for Independent Journalism, APADOR-CH

Layout and design:

Alexandra Câdea
Dan Ichimescu

English translation:

Irina Isaia

Donor:

Open Society Institute

© ActiveWatch

Member of the Reporters without Borders Network

98 Calea Plevnei, building 10C, 1st district, Bucharest; P.O. Box 2 Post Office 67
021 313 40 47 021 637 37 67
office@activewatch.ro www.activewatch.ro
IBAN Account: RO 83 BTRL 0450 1205 A793 02XX
Transilvania Bank Știrbei Vodă Branch
C.I.F. 18912239

TABLE OF CONTENTS:

| | |
|---|-----------|
| Methodology | 5 |
| PREAMBLE | 6 |
| Mass-media, more politicized than ever | 6 |
| The journalist - a target of state interventions | 7 |
| The State, the citizen's enemy | 7 |
| Public media remained under political control | 7 |
| Abuses committed by media owners against the journalists | 8 |
| Unethical editorial practices and press corruption | 8 |
| The implementing of the new Civil Code - a possible threat towards freedom of speech | 9 |
| I.1. Pressures exerted by authorities and public institutions | 9 |
| The press - a weaknesses against national security | 9 |
| Undercover agents in the Jurnalul Național newsroom | 10 |
| Interim President Crin Antonescu and the USL ask the intelligence services and the Prosecutor's office to identify and punish "the enemies of the people" | 11 |
| The intelligence services and the mass-media | 11 |
| Political police actions against a journalist | 12 |
| Civic activist harassed by new-school secret police officers | 13 |
| Judicial pressures upon the press | 13 |
| Journalist, unwillingly advanced to colonel | 14 |
| The One World photo exhibition, prohibited in the University passage way | 14 |
| Agerpres punishes the journalists who ask uncomfortable questions | 14 |
| The Curentul newspaper no longer travels by the Romanian Railway Company (CFR Călători) | 15 |
| The school wants them to cut their hair | 15 |
| Vocalist fined for statements made during the concert | 16 |
| Billboard against the Roșia Montana Gold Corporation excavation, demolished by the 3 rd District Mayor's Office | 16 |
| Censorship in the university environment? | 16 |
| I.2. Political pressures | 16 |
| The President's war with the press | 16 |
| Censorship at România literară | 17 |
| USL wants censorship | 17 |
| TVR censors an election spot | 17 |
| Parliamentary thrown out from the December 1 st Presidential reception | 18 |
| I.3. The politicization of the journalistic speech | 18 |
| Journalists mediatically and politically lynched | 18 |
| Journalists who are politicians and politicians who are journalists | 19 |
| "Protesters" paid by the news televisions | 20 |
| PNL referendum stenographs | 20 |
| Decorated at the Olympics, insulted by the journalists | 20 |
| The People's Party television | 20 |
| Government-opposition on TV | 20 |
| Election campaigns | 21 |
| The campaign complaints | 22 |
| Party televisions and journalists | 22 |
| Curentul Journalist: I wrote over 300 surveys on commission | 22 |
| Attacks between two USL politicians, both closely connected to the media | 23 |
| I.4. Economic pressures | 23 |
| The Steaua club causes victims amongst journalists | 23 |
| "Mitică" dictates in televisions | 24 |
| România liberă changes a journalist's article in its essential parts | 24 |
| Two dailies censor Roșia Montană from Victor Ponta's speech | 24 |
| I.5. The National Council of the Audiovisual - victim of last year's political battle | 24 |
| The members' division into camps reflecting the political spectrum - more visible than ever | 24 |
| The revocation of the OTV station's broadcasting license | 27 |
| "The unnatural autonomy" of the tvinfo.ro journalists | 30 |
| III. AGGRESSIONS | 33 |
| The authorities breach the law on public assemblies | 33 |
| Freedom of speech is commandeered on sports arenas | 34 |
| Violence acts against the freedom of speech | 34 |

| | |
|--|-----------|
| III.1. Aggressions against journalists..... | 35 |
| One photojournalist was punched | 35 |
| Mihai Goțiu, journalist and Save Roșia Montană activist, attacked during a Realitatea show | 35 |
| A journalist was beaten up in the hallway of his block of flats | 35 |
| Journalists assaulted in the voting stations..... | 36 |
| A female journalist, assaulted during a local Council meeting | 36 |
| Camerasman beaten up for trying to protect his colleague | 36 |
| Journalists whose cars were vandalized..... | 36 |
| Romanian photographer arrested in Mexico | 36 |
| III.2. INSULTS AND THREATS..... | 37 |
| Former Prime Minister Victor Ciorbea insulted Mălin Bot on live TV..... | 37 |
| Traian Băsescu insults the journalists | 37 |
| Gigi Becali, repeated insults on România TV | 37 |
| Puiu Hașotti, Minister of Culture, called a Iași journalist a "moron" and an "idiot" | 37 |
| Ilie Năstase assaulted a crew of journalists | 37 |
| Liliana Ciobanu, freelance journalist, threatened for her collaboration with The Economist and CNN | 38 |
| Radu Mazăre, insults by prin SMS sent to B1TV | 38 |
| Cluj politician Alin Tișe insults journalists who discuss issues of a public interest | 38 |
| Laurențiu Reghecampf and Mihai Stoica threaten and insult journalists..... | 38 |
| A Baia Mare journalist was threatened after publishing an inquiry | 39 |
| IV. THE RIGHT TO DIGNITY, PERSONAL PORTRAYAL, PRIVATE LIFE | 40 |
| Doctor Valeriu Nicula vs Tudor Știrbu and Clujeanul | 40 |
| Dumitru Sechelariu vs blogger Florin Popescu | 40 |
| The wife of deputy Leșe vs Romeo Roșianu..... | 41 |
| V. THE ACCESS TO INFORMATION OF PUBLIC INTEREST | 42 |
| Dignitaries do not answer either their e-mails, or letters | 42 |
| The Court of Accounts wanted to delete the irregularities of AGERPRES | 42 |
| Mayor Onțanu revokes credentials because of "unreal questions" | 43 |
| Freelance journalists not accredited by BEC at the referendum regarding Roșia Montană | 43 |
| The Negotiations with IMF, hidden from the press/public | 43 |
| The Constitution's amendment, reserved to the "political elite" | 44 |
| Open data starts producing results..... | 44 |
| VI. THE MEDIA MARKET | 45 |
| VI.1. The print press in 2012 | 45 |
| VI.2. The TV market | 45 |
| The measuring of ratings, challenged by TVR and Realitatea TV | 46 |
| VI.3. The radio market..... | 46 |
| VI.4. The online market..... | 47 |
| VI.5. Advertising..... | 47 |
| VII. WORK CONFLICTS | 48 |
| "Dictatorial work environment" at AGERPRES | 48 |
| Journalist Florentin Deac vs Cuvântul Liber | 49 |
| The Adevărul journalists, summoned to waive part of their rights | 49 |
| Strike at România Liberă | 49 |
| "Anonymous" protest of the Jurnalul Național editors | 49 |
| The Unique Collective Employment Contract at the Media Branch Level has been extended | 50 |
| A journalist's corrupt connections with the political environment | 51 |
| Journalists condemned or prosecuted for blackmail..... | 52 |
| The press is leading an "anti-CSM" campaign | 52 |
| Journalists make newspapers for the election campaigns | 52 |
| The Romanian journalists on the guild's problems | 52 |
| Copyrights | 54 |
| The journalists' access to public information in the justice process | 54 |
| The civil and penal codes | 55 |
| The "Big Brother" law | 56 |
| The European Parliament votes ActiveWatch's proposal to prohibit the infiltration of intelligence service agents in newsrooms..... | 56 |
| Table of Abbreviations | 58 |

Methodology

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

This report mainly covers the events of year 2012. The published cases are of an illustrative nature. We have also included in the report cases that do not directly concern the media or the journalists' rights, when we believed that they were relevant for the manner in which freedom of speech and press freedom are perceived in Romania.

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

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

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

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

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

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

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

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

PREAMBLE

In 2012, Romania was on the 42nd place in the annual classification of press freedom, compiled by Reporters without Borders¹, after Spain (36), France (37) and Latvia (39) and ahead of other members of the European Union, such as Hungary (56), Italy (57), Greece (84) or Bulgaria (87). At the same time, according to the global report regarding press independence, drawn up by Freedom House, the Romanian mass-media is "partially free"².

The most important events in 2012, with a negative impact upon freedom of speech:

- The confirmation of the existence of undercover agents in newsrooms.
- The intensification of the political police practices against certain journalists and civic activists.
- Certain high dignitaries instigated the intervention of intelligence services and the prosecutor's office against any critical voices.
- The abusive and violent repression of street and sports stadium protests.
- The use of media institutions as political weapons by media owners has been more visible than ever, in the context of a political year, marked by local and parliamentary elections and the referendum for the removal of the President.
- The overt partisanship practiced by a significant portion of the media.
- A high number of journalists got into politics.
- The sacrificing of public interest subjects in favor of sterile political disputes, including during election campaigns.
- The economic crisis further weakened the journalist's status towards the owners.
- The failure to comply with salary rights, as well as the owners' abuses, have become a phenomenon on the media market, in the context of the economic crisis.
- The increase in the number of corrupt media practices that have been publicly exposed.
- An abundance of unethical editorial practices.
- A number of journalists have been publicly lynched by their fellow journalists.
- The powerful return of the nationalist and homophobic speech.
- The political pressures exerted upon the National Council of the Audiovisual by both political factions, represented by the Social Liberal Union (USL) and the Democratic Liberal Party (PDL).
- The perpetuation of political control over public radio and television media.
- The appointed managers of the public radio and television were respectively a former head of the Foreign Intelligence Service (TVR - public television) and a former collaborator of the secret police (SRR - public radio).
- The cessation of the public television's editorial production for seven months.
- The state institutions' blocking of the access to public interest information and the emphasizing of a tendency to detach the decision-making process from the rest of the society.
- Certain courts' interpretation of the new Civil Code seriously restricts freedom of speech.

Mass-media, more politicized than ever

2012 amounted to a chronic politicization of the media market, during a year which was shaken up by the political war between the President and USL registered two elections and a referendum for the removal of the President. Both political factions were successively in office and in opposition, which uncovered the similarity between the behaviours manifested by the entire political environment towards the public media (the Romanian Television - TVR and the Romanian Broadcasting Society - SRR), the regulation and control institutions (the National Council of the Audiovisual - NCA), as well as the instrumentalization of the private media institutions as political propaganda agents.

The editorial policy of a significant portion of the private press was used in the political and economic interests of media owners and both political factions benefited from the support of certain media institutions. Journalists and media institutions aligned behind the political factions, sacrificing any claim of objectivity in favor of overtly biased stands.

The pro-USL (Social Liberal Union - USL) (or anti-Băsescu voices dominated the mediatic space, by means of a much more powerful media arsenal. Important USL leaders control media entities or groups. Dan Voiculescu, founder of the Conservative Party, holds (through his family) control of the Intact trust, and Sebastian Ghiță, Social Democratic Party (PSD) senator, is the owner of the România TV news television station. Another news television station, Realitatea TV, is controlled by a close friend of the PSD, Cozmin Gușă. On the other side, Dan Andronic, former journalist and current political advisor, conducted the choir of president Băsescu supporters, the most powerful of which were the Evenimentul Zilei daily and the B1TV television station. Andronic's itinerary, who previously advised Băsescu's former adversaries - Adrian Năstase and Călin Popescu Tăriceanu, is quite noteworthy.

In order to vanquish even the very last illusions regarding the independence of the press, several journalists got into politics and some of them have already made it as far as the Parliament. Unfortunately, the behaviour of these "media celebrities" risks compromising the entire guild, casting a shadow of doubt over the newsrooms work performed by thousands of journalists with no public figure status.

¹ Press freedom index 2013, Reporters Without Borders, En.RSF.org, <http://en.rsf.org/press-freedom-index-2013,1054.html>, classification published in 2013

² Freedom of the Press 2012: A Global Survey of Media Independence, Freedom House, FreedomHouse.org, report published in 2012

The journalist - a target of state interventions

Beyond this politicization of journalistic speech, the most serious attacks against the freedom of speech came from the repressive state apparatuses and from certain high dignitaries. For the very first time, there is confirmation of the newsroom infiltration of undercover secret service agents (see the Jurnalul Național case), a fact for which the Romanian Intelligence Service (SRI), amongst others, claimed responsibility. One journalist and a newsroom in Tg. Jiu were placed under informative surveillance over a period of several months, having wire-taps installed on their telephone calls and electronic communications, on the basis of a warrant issued without any evidence-supported motivation.

A young civic activist was harassed by methods specific to the Communist secret police, by agents of the Argeș police, at the request of the Bucharest Security and Protection Service. Said agents went to Mihail Bumbăș's parents' home, asking his mother questions regarding his ownership of certain firearms. Subsequently, the police officers also obtained his medical chart from the family doctor's office.

Three other journalists were included in a Public Prosecutor's charge targeting a criminal group led by former deputy Mihail Boldea, sued for fraud and other crimes. The three journalists are accused, by the DIICOT prosecutors who prepared the charge, of attempting to favor the criminals by pressuring the prosecutors by means of various published media articles. The prosecutors brought no evidence in support of said accusations.

Politicians and high-ranking dignitaries made aggressive speeches against journalists. Both presidents who were successively in office last year requested the intervention of the intelligence service against the critical voices. President Traian Băsescu reiterated his old request to include the media among the weaknesses against national security, in the report of the Supreme Council of National Defense. Interim President Crin Antonescu explicitly requested the intelligence services to identify those who "destroyed" the country's image.

Many threats, insults and acts of violence were committed against journalists, by football figures. The aggressive speech, the threats and the instigation to violence against journalists have no longer been only the politicians' preferred prerogative; in 2012 and during the first months of 2013, press people and media institutions proffered insults and instigated against certain journalists. Numerous journalists who criticized the actions carried out by the government coalition in the summer of 2012 were subjected to a mediatic lynching by fellow journalists, being accused of taking part in a conspiracy against the USL, and the aggressiveness of the language in these cases greatly surpassed that of the politicians.

The access to public interest information has not improved over the last year and the political environment's tendency to detach the decision-making act from the public's eyes has been visible. The journalists still risk having their credentials revoked because of the articles they publish, important normative acts are still discussed by public institutions behind closed doors, public information is very often obtained by court decisions and not directly from the public institutions. The Constitution's amendment process, commenced at the beginning of 2013, is being carried out without press or civil society access, according to a decision made by Crin Antonescu (President of the National Liberal Party - PNL, member of USL), president of the Senate and of the Committee for the revision of the Constitution. A positive fact is the instrumentalization of the Open Data concept by an ever increasing number of independent activists, as well as journalists.

The State, the citizen's enemy

Year 2012 registered the highest number of law enforcement abuses in actions against street or sports stadium protests³. The gendarmerie forcefully intervenes in order to repress any public assembly, invoking the absence of an authorization, which represents an abusive interpretation of law no. 60/1991 on public assemblies, which does not provide for the need to have an authorization. The head of the Bucharest Gendarmerie, Eugen Meran, was removed from office by the Minister of Administration and Internal Affairs at the beginning of 2013, because of the abuses committed by his subordinates during the previous year, at the University Square protests.

Public media remained under political control

In keeping with tradition, the new political regime appointed other administrations for the public radio and television services. In the case of public television - TVR, the former Board of Directors (BoD) was removed from office and the Parliament dismissed the 2011 activity report, despite the fact that the 2009 and 2010 reports had not been discussed and voted. During said years, TVR's administration was dominated by the current majority. The replacement of the BoD occurred after the Government seized TVR's accounts because of the latter's huge debt to the state budget. The measure of blocking the accounts was cancelled after the Parliament appointed a new Board of Directors.

In the case of public radio, the new governance only replaced the President - General Manager. The new President - General Manager is Ovidiu Miculescu, former manager of private station Radio Europa FM.

Claudiu Săftoiu and Ovidiu Miculescu had connections with the intelligence services. Săftoiu was the manager of the Foreign Intelligence Service for 6 months in 2006-2007, while Ovidiu Miculescu signed an agreement with the communist secret police in 1987, according to the the National Council for the Study of the Former's Securitate's Archives (CNSAS).

Another public institution exposed to political aggressions was the National Council of the Audiovisual (NCA).

³ Described in the FreeEx 2011 report.

Both political factions subjected the institution to pressures that affected its independence and proper operation and, on several occasions, the NCA experienced an institutional blockage and was unable to decide with respect to important test cases. PD-L and USL successively accused one another, depending upon their political status at the time, of failing to comply with the agreement regarding the assignment of Council positions, when new members were appointed. Both political factions also made accusations with respect to the exertion of political pressures upon the institution. Every time, the parties that claimed abuses were in opposition.

Under the pressure of the over EUR 140 million debts it had accrued and of an Emergency ordinance issued by the Government, the new management of the public television launched a process of institutional restructuring unprecedented after 1989. The process caused discontentment and controversy among the employees and some members of the Board of Directors, but the employees' reaction was rather weak. It should be noted that most members of the new Board of Directors, as well as some members of the team that developed the restructuring plan, had also been members of the former Boards, the same ones that they accused of having caused TVR's financial disaster. Over 700 employees were made redundant and two TVR channels were shut down (TVR Info and TVR Cultural). Meanwhile, TVR Info was renamed TVR News and reopened in a partnership with Euronews, its editorial content being covered, in a proportion of 80%, by Euronews programs.

An unprecedented fact - in order to limit its losses, TVR's management ceased editorial production for 7 months. The decision raises doubts with respect to TVR's compliance with its mission as a public service, as defined by Law no. 41/1994 for the operation of public radio and television services.

The interim general manager Radu Călin Cristea and afterwards Claudiu Săftoiu, President - General Manager, exerted pressures upon the management of tvrinfo.ro website's newsroom, in view of obtaining the source of the information published by www.tvrinfo.ro with respect to Prime Minister Ponta's plagiarism. The newsroom of tvrinfo.ro was also prevented from covering the campaign for the referendum regarding the President's removal from office, by successively invoking a number of ridiculous arguments, detailed in the chapter dedicated to the TVR.

Abuses committed by media owners against the journalists

The worsening of the economic crisis affecting the media market intensified the violation of labour rights and the abusive behaviour of the media owners has become a practice. Journalists are pressured into waiving their salary rights and accepting copyright contracts, which offer journalists no protection and weaken their position in relation to the owners. Also, there is an increasing frequency of the abusive clauses in employment or collaboration contracts, which restrict the employees' right to free speech and prohibit them from publicly disclosing the newsroom problems.

The economic situation of the media market continued to worsen and its most affected sector was the print press, which dealt with publication shutdowns, massive layoffs and substantial salary cuts. The online media registered an increase in advertising revenues, but these were mainly absorbed by the major players (Google and Yahoo). According to the data published by the NCA in 2012, Romania had over 700 television stations and over 600 radio stations.

This context contributed to the consolidation of the television stations' position as information sources for the population (94% of Romanians used television as their main source of information) - an alarming phenomenon, if we consider the profile of the audiovisual market owner. The major players on the market, especially news televisions, have owners who are directly involved in politics, some of them actually being members of the Parliament.

2012 also registered an outburst of the conflict between the content distributors and providers. Several television stations started a direct conflict with their distributors and in some cases, the latter took the television stations out of their schedule. At the same time, distributors also became content providers, launching a number of stations that competed with the other content providers. The situation is risky, as distributors are accused of abuse of a dominant position.

Unethical editorial practices and press corruption

The financial difficulties magnified the compromises made by the newsrooms, and this distorted the editorial content. The ratings pressure generated an abundance of editorial negative changes, as many newsrooms manifested a visible contempt for any professional rules and for the persons' right to dignity. Manufactured news, the staging of allegedly authentic televised shows, the ostentatious pursuit of morbid, ridiculous, dirty aspects of certain public persons' lives have all become common practices.

New cases of press blackmail have also appeared and court decisions have been made with respect to some older cases. The former shareholder of the www.HotNews.ro online publication, broker Cristian Sima, threatened the manager of the Bursa publication, Make (Florian Goldstein), to publicly disclose the latter's transactions on the foreign capital market, should he publish any information that might compromise the former's brokerage firm. Bogdan Chirieac reappeared in a new press corruption scandal, being accused of influence peddling with politicians in favor of certain foreign companies.

The implementing of the new Civil Code - a possible threat towards freedom of speech

The new Civil Code, which came into force in October 2011, risks creating a dangerous case law for freedom of speech. In the 2011 FreeEx report, we presented the case of the Maramureş journalist Ioan Romeo Roşiiianu, who was prohibited, by means of an injunction, from further writing about a deputy's wife, who was a medical doctor and a businesswoman. In 2012, the Cluj Court of Appeals forced Roşiiianu to delete 12 articles from the internet, on the grounds that they breached the aforementioned person's non-patrimonial rights. The articles' subjects were of public interest.

I. PRESSURES

I.1. Pressures exerted by authorities and public institutions

The press - a weaknesses against national security

In 2012, President Traian Băsescu revisited his 2010 idea regarding the inclusion of the press as a weakness against national security. The mediatic campaigns against certain magistrates and institutions such as National Agency for Integrity (ANI), registered in the context of the harsh political battle in 2012, were invoked by the President as arguments in favor of this proposal.

Thus, invited to a show on România TV, Traian Băsescu stated as follows: *"One of the reasons why I spoke of weaknesses against national security was related to what the Intact trust is doing. When you have such mediatic strength directed towards misinforming the population, you must take into account the fact that ultimately, at some point, the population shall become manipulable and shall end up repeating the words of Chireac, the competent walrus, as I call him, Gâdea [...], Radu Tudor [...]. From dusk till dawn, these people put lies into people's heads".* Băsescu emphasized the fact that one must find, together with the Ministry of Justice, a solution to protect justice, making direct reference to legislative solutions: *"We have this weakness, which should probably be handled legally. Because it is not only used against the institutions that are part of Romania's justice system, but also against other institutions"*⁴.

Similar recommendations are included in the Mechanism for Cooperation and Verification (MCV) report of the European Commission in January 2013. The Mechanism for Cooperation and Verification MCV report advises Romania *"Review existing standards to safeguard a free and pluralist media while ensuring effective redress against violation of individuals' fundamental rights and against undue pressure or intimidation from the media against the judiciary and anti-corruption institutions"*⁵.

The Romanian Intelligence Service (SRI) manager George Maior reiterated, at the beginning of 2013, the theme of the weakness against national security, claiming that the journalistic investigations on the CIA prisons in Romania expose the country to terrorist danger - *"it is perfectly legitimate that a journalistic investigation on the alleged CIA prisons should be conducted, but the question is who has use for such an investigation; because of these investigations, we could be even more exposed from the point of view of the terrorist danger to which we are referring. Various organizations take these shows for granted and pick up on this possibility and as a result, Romania becomes more interesting for them that it had ever been in the past"*⁶. Maior's statement came shortly after the publication, by Antena 1⁷ and the Romanian Center for Investigative Journalism⁸, of a TV documentary series, "ROantnamo - The CIA prisons in Romania". Prior to publishing the materials, the SRI had refused to make any comments regarding the journalistic investigation.

With respect to the Mechanism for Cooperation and Verification (MCV) Report recommendations, ActiveWatch stated: *"We believe that they fail to take into consideration the legal background currently in force and the standards resulting from the case law of the European Court of Human Rights and ignore the profile of the Romanian political class, which has often tried to restrict the freedom of the press, by means of economic pressures or legislative measures. There is a real risk that claims such as those included in the Mechanism for Cooperation and Verification (MCV) (<<review of existing rules, to ensure that freedom of the press is accompanied by a proper protection of institutions and of individuals' fundamental rights, as well as to provide for effective redress>>) be invoked by the Romanian politicians in order to justify new legislative initiatives meant to restrict freedom of speech, a situation with which we are faced every year. (...) In this context, we must draw attention to the fact that the legislation currently in*

⁴ Băsescu: <<Media is a WEAKNESS against national security>>, Realitatea.net, January 4, 2013.

⁵ REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on progress in Romania under the co-operation and verification Mechanism, http://ec.europa.eu/cvm/docs/com_2013_47_ro.pdf, January 30, 2013

⁶ Interview with George Maior, SRI Manager: There are power centers that want to use SRI in the 2014 presidential battle', Sabina Fati, Româniliberă.ro, February 22, 2013.

⁷ <http://a1.ro/roantnamo>

⁸ <https://www.crji.org/articole.php?id=4200>

force offers sufficient defense instruments to those who consider themselves to be victims of mediatic attacks. The new Civil Code, as well as the Audiovisual Law and the Law on the organization and operation of the Superior Council of Magistracy, contain explicit provisions that protect the right to dignity, personal portrayal, honor, private life, including for the members of the judicial power. There are already court decisions on the new Civil Code that favor those who turned to the courts of law in order to protect those personal rights that, in their opinion, had been infringed upon by the media"⁹.

The Paliament's approval of a national defense strategy that includes the press among the weaknesses against Romania's security shall force the bodies with defense responsibilities to draw up action plans and to schedule specific activities for the prevention, lowering or elimination of the weakness represented by the press, and the same bodies are obligated to take steps to prevent, lower or prevent any other weakness for Romania, provided for in the strategy. To that effect, in point 1 of its Introduction, the strategy mentions that *"After enacting this document, the executive and the institutions with specific responsibilities shall be asked to develop individual sector strategies, which must contain concrete measures, specific to their field of action, meant to counteract and prevent the risks, the weaknesses and the threats in their specific area of responsibility"*.

The great danger of the decisions that obligatorily arise from the approval of the strategy is represented by the measures of an "operative", occult nature, regarding the press and the journalists, which shall be included in the category of classified information and which, for this very reason, can be neither publicly disclosed, nor subjected to public debate. Under such circumstances, in order to counteract and prevent the weakness represented by the press, the journalists can be wire-tapped and kept under surveillance, just like any person who poses a threat to national security and the newsrooms of newspapers can be infiltrated with agents/collaborators of intelligence services, like any organizations that put national security in jeopardy, while the more critical journalists can become the object of compromise and neutralization actions, just like in the case of any threat to national security.

In an interview published in 2010, SRI's manager claimed that *SRI has undercover agents in the areas of interest for national security*¹⁰. The infiltration of the Jurnalul Național daily's newsroom by SRI undercover agents is the most serious example of such practices. Other journalists and newsrooms have been placed under informative surveillance, and their telephone conversations have been wire-tapped (see the Daju case set forth in this chapter).

In November 2012, ActiveWatch asked the European Parliament's Commission for Civil Liberties, Justice and Home Affairs LIBE to insert in the initiative report of National Liberal Party - MEP (ALDE) Renate Weber regarding the EU Charter, "Standard norms for EU media freedom", an amendment that prohibits the infiltration of newsrooms in the European Union states¹¹. The amendment was enacted on February 21, 2013.

Undercover agents in the Jurnalul Național newsroom

The Romanian Intelligence Service (SRI) publicly admitted that it infiltrated undercover agents in newsrooms. The subject has been under debate for quite a while inside the guild, but this is the first time when documents attesting to such practices have actually surfaced. On August 15, Cotidianul.ro published a series of documents bearing the letterhead and the stamp of the Romanian Intelligence Service. The documents attest to the existence of an undercover agent in the newsroom of Jurnalul Național, identified under the conspiratorial name Sofia Teodorescu. According to the published document, said agent offered the SRI officers information with respect to the context of the publication of a SRI-related material in the daily newspaper, the persons involved in its publication, the author's profile, the newsroom's atmosphere, paying special attention to the possible existence of a "mediatic attack" against the SRI. The article that incited SRI's interest was published on January 16, 2006 under the title *"The USA's army buries SRI's black hole"* and was signed by Răzvan Belciuganu. In a press release issued a few days later, the SRI admitted to the authenticity of the documents published by cotidianul.ro. *"The publicly presented aspects represent unauthorized copies of excerpts from internal materials and are the result of certain actions ordered by former SRI management members in charge with the institution's protection, in view of clarifying very specific serious aspects regarding a possible leak of classified information from the Service, in the context of the publication of certain press articles.(...) We must specify that the check-up measures carried out over said period were performed in the context of the identification of a former employee of our institution who, in connection with media people, was involved in activities with clear criminal connotations, pertaining to the institution's internal protection structure"*¹².

On August 16, the Intact trust announced that it intended to lay off Valentin Zschievici, one of the newspaper's four editors-in-chief, specifying that Intact Media Group (IMG) *"considers that the infiltration of media institutions by Secret Service undercover agents represents a serious limitation of media freedom, guaranteed by article 30 of the Romanian Constitution. (...) Intact Media Group requests all secret agents in the media to resign: otherwise, as evidence is collected with respect to the existence of commitments/collaborations of its own employees with the secret service, Intact Media Group shall sue the guilty parties for the prejudices caused"*¹³. Asked if he was Sofia

⁹ "Press release regarding the MCV Report: Freedom of speech does not need new laws, but protection", ActiveWatch, ActiveWatch.ro, January 30, 2013.

¹⁰ "The undercover agents in Romania have begun to vanish", Cornel Ivanciuc, Cațavencii.ro, March 14, 2013.

¹¹ "The European Parliament included in its agenda the prohibition of undercover agent infiltration of newsrooms", ActiveWatch.ro, February 22, 2013.

¹² SRI press release, August 15, 2012.

¹³ "Editor-in-chief Valentin Zschievici was fired from Jurnalul național", ReporterVirtual.ro, August 16, 2012.

Teodorescu or if he knows who that individual might be, Zaschevici stated: *"I'm not even certain that such an individual exists"*¹⁴.

ActiveWatch notified the Parliamentary Committee for the control of SRI's activity with respect to this incident, asking it to commence an investigation, to request SRI a report containing the number of undercover agents infiltrated in newsrooms, as well as to commence actions for the amendment of the legislation that allows for the infiltration of newsrooms by intelligence service agents.

The Committee answered none of the questions asked. Furthermore, the response sent in the Committee's name seems to have been written by the SRI itself, both in point of semantics and in point of the manner of reference (*"our institution"*). ActiveWatch returned with a new request addressed to the Committee. In a new response on October 31, 2012, the permanent joint Committee of the Chamber of Deputies and the Senate for the exercise of parliamentary control over the Romanian Intelligence Service specified:

- "The Committee can publicly disclose an examination/verification/research activity, only provided that the data and information accessed or provided is not classified".
- "SRI cannot be obligated by the Committee to inform the latter with respect to the specific means used in gathering information".
- "All actions and acts of the Committee are classified as <<state secrets>>, save for the conclusions set forth in the Committee's reports".
- "No breaches of any constitutionally guaranteed rights and freedoms have been singularized".

Interim President Crin Antonescu and the USL ask the intelligence services and the Prosecutor's office to identify and punish "the enemies of the people"

In August, Crin Antonescu, Romanian interim President after the suspension of Traian Băsescu, claimed that Romania's negative image was the result of a deliberate action and asked the intelligence services to identify the persons responsible: *"(...) we must, however, understand the mechanism by which a country's image was destroyed in two weeks in an obviously organized, coordinated, financed action. We must find out who did this, because this is something that affects our country, as a whole"*¹⁵. *"I said, during a discussion, an interview, a televised show in any case, that what we can see is that someone organized an organized, a coordinated, a financed action against Romania's image and that in my opinion, SIE (the Foreign Intelligence Service) should analyze and find, by specific means, how that operation was carried out"*¹⁶, Crin Antonescu also declared.

Crin Antonescu's gesture was just a link in a chain of actions to intimidate the critical voices against the Social Liberal Union (USL) government, one of the main targets of which was the media.

Two years ago, journalists were put in a similar situation by the regime led by Traian Băsescu, when CSAT proposed to include the press among the weaknesses against national security, a decision which has an intimidating effect and may, at any time, give rise to abusive actions against uncomfortable voices.

On July 19, Eugen Nicolaescu, Vice-president of the Chamber of Deputies, announced that USL submitted a criminal complaint with the Public Prosecutor's Office attached to the High Court of Cassation and Justice, against certain PD-L members, president Traian Băsescu and certain close friends of the latter, whom he accused of denigrating Romania's image and manipulating local and international media with respect to the actions of USL's majority, which preceded the suspension of president Traian Băsescu¹⁷.

The intelligence services and the mass-media

The presence of the intelligence services in the mass-media was also revisited on the occasion of a mediatic conflict that started at the beginning of 2013, between television stations close to the USL coalition. Two politicians belonging to the governing coalition accused one another of having connections with the secret services. Thus, PNL senator Sorin Roșca Stănescu accused PSD deputy Sebastian Ghiță of being a SRI undercover agent, while Ghiță referred to S.R. Stănescu's proven capacity as a former communist secret police collaborator.

S.R. Stănescu was a journalist and owner of the Ziua daily newspaper and a shareholder of other media entities and is currently a member of the Senate's culture, arts and media Commission. Sebastian Ghiță is the owner of the România TV news channel and of local publications and television stations and is the secretary of the Parliamentary Committee for the control of SRI's activity.

S.R. Stănescu declared about Sebastian Ghiță: *"This television station, managed by undercover officer Sebastian Ghiță, is trying to hurt PNL at the top [...]. I cannot make conjectural charges against Mr. Sebastian Ghiță and it is also very difficult because, as a SRI undercover officer, his reactions are unpredictable. (...) I must remind Mr. Ponta that Sebastian Ghiță does not come from nothingness, he did not simply parachute himself into the media world and become a major media trust owner by coming from nothingness. He came directly from general Zamfir from the Romanian Intelligence Service. And all of the IT businesses that Mr. Ghiță made and on the basis of which he has built a small empire now, come from businesses conducted with the state, through the SRI. Therefore this relationship must*

¹⁴ "The disclosures of the journalist fired from <<Jurnalul național>> on the <<undercover agent>> scandal", Simona Ionescu, EvZ.ro, August 25, 2012.

¹⁵ "Antonescu, to the SIE: Romania's image, destroyed in an organized, coordinated, financed action", Mediafax.ro, August 5, 2012.

¹⁶ "PRESS RELEASE, regarding: Press statements of Romania's interim President", Crin Antonescu, Presidential Administration, August 8, 2012.

¹⁷ "USL filed a criminal complaint against PDL members, on the grounds that they denigrated Romania's image", Antena3.ro, July 19, 2012.

be demolished"¹⁸. Mugur Ciuvică also declared, with respect to Sebastian Ghiță: "We have all heard that Mr. Ghiță is a very good friend of the SRI bosses, who also helped Mr. Ghiță on the business front"¹⁹.

In his turn, Sebastian Ghiță said about S.R. Stănescu: "Sorin Roșca Stănescu remains a duplicitous individual who uses communist secret police methods. I do not know exactly what his relations are with the Ceaușescu secret police, but his customs certainly are the same. His attack against the Romanian intelligence services is purely Soviet in nature. The attack was launched during a week in which Voiculescu's trust also attacked Romania's intelligence services, their partners in the United States and their credibility, and Ioan Nicolae, former secret police officer, known collaborator of the Russian gas companies, attacked, during paid shows, Romania's efforts in the field of the exploitation of shale gases and also accused SRI and SIE"²⁰.

The exchange of accusations took place concurrently with a mediatic conflict between the news televisions close to the USL coalition, the news station controlled by PSD deputy Sebastian Ghiță (România TV) and the other competing news channels (Antena3 and Realitatea TV), who also belong to owners that are close to the USL coalition (the Voiculescu family and Cozmin Gușă). România TV repeatedly criticized the activity of certain liberal politicians, including USL leader Crin Antonescu.

At the same time, the other news televisions accused România TV both of professional malfeasances (the case of the illegitimate son of director S. Nicolaescu - see the Ethics chapter of this report - or the claims unsupported by evidence with respect to an alleged inquiry by the National Department for Anticorruption with respect to Mariana Câmpeanu, Minister of Labor and Social Protection), and for owner Ghiță's alleged connections of with the SRI. România TV responded to the criticism coming from the competition, claiming that "Antena 3's attacks against RTV are meant to protect Crin Antonescu"²¹.

The management of SRI distanced itself from this scandal by means of its spokesperson, Sorin Sava: "One promotes all sorts of false themes and accusations that lack substance and do not even benefit from any credibility, considering the persons from whom they originate. These messages are periodically reiterated, in an attempt to attract SRI in public debates, intended to serve partisan interests"²².

Political police actions against a journalist

In January 2013, journalist Narcis Daju of the online local publication Gorj TV filed a petition with the Gorj Tribunal, in order to find out whether over the two previous years, any authorization had been issued for wire-tapping his telephone conversations and/or his ambient discussions.

According to the Penal Procedure Code, any person whose conversations and communications were wire-tapped and registered must be notified by the public prosecutors after the expiry of the wire-tapping warrant with respect to the duration of the wire-taps and the motivation thereof. Daju received no such notification and resorted to the Public Prosecutor's Office in order to find out whether or not he had been placed under surveillance.

The information provided by the Public Prosecutor's office reveals that journalist's phones had been wire-tapped in January and February 2012 and his internet communications in February and March 2012, as part of a criminal file having as a subject a local interloper, Șerban Doru Aristică, nicknamed Habitu. The prosecutors' motivation was that the journalist allegedly kept in touch with the defendant and knew information regarding the criminal investigation activity, but brought no evidence in support of such claims. The Public Prosecutor's charge reveals that another telephone number, used by the entire Gorj TV newsroom, had also been wire-tapped.

Said wire-tapping did not reveal any data that would justify the criminal investigation and the conversations and the communications were not recorded in any minutes. The wire-tapping and recording petition addressed by the Public Prosecutor's Office to the Gorj tribunal is ungrounded and lacks the *de facto* grounds that justify such measure. The authorization decision issued by the Gorj Tribunal is also ungrounded, as there are no references to the perpetration of a crime.

ActiveWatch approached the Superior Council of Magistracy, requesting an investigation of the political police-specific actions performed against journalist Daju: "We consider that the facts notified by Narcis Daju impose a careful investigation from the qualified institutions (the Judicial Inspectorate of the Superior Council of Magistracy, the prosecutor section and the judge section). We have grounded indications that we are dealing with actions specific to political police, the consequence of which is the infringement of a citizen's constitutional rights. More seriously still, given said citizen's capacity as a journalist and the fact that the wire-tapping also included a telephone used by the entire newsroom of a local television station, we believe that we are dealing with an action of pressure and intimidation of the press. Such surveillance actions, the factual soundness of which is proven neither in the prosecutor's request, nor in the Tribunal's decision, jeopardize the professional activity of the journalist and of the newsroom a member of which the journalist is, by affecting their relationship with their sources (the journalist's confidential relationship with his/her sources is compromised by the wire-tapping of the communication), as well as the citizen's right to free information. Furthermore, the inclusion of a journalist in a criminal file and his/her

¹⁸ "Sorin Roșca Stănescu (PNL senator) says that the owner of România TV is a SRI undercover officer", Ampress.ro, February 10, 2013.

¹⁹ "The moguls' match is heating up. Antena 3 counter-attacks: <<Ghiță lies just like he would on RTV>>", Laurențiu Ciocăzanu, ReporterVirtual.ro, February 12, 2013.

²⁰ "The moguls' match is heating up. Antena 3 counter-attacks: <<Ghiță lies as he would on RTV>>", Laurențiu Ciocăzanu, ReporterVirtual.ro, February 12, 2013.

²¹ "All-out war! România TV: Antena 3 is stealing our news and protecting Crin Antonescu", Laurențiu Ciocăzanu, ReporterVirtual.ro, February 21, 2013.

²² "Sorin Sava: SRI disapproves of the attempts to involve it in public or political debates. The service is neutral and equidistant", I.C., HotNews.ro, February 16, 2013.

*unsubstantiated association with persons under criminal investigation risks compromising the credibility of the journalist and of the media institution for which such journalist works*²³.

Civic activist harassed by new-school secret police officers

Four employees of the Argeş County Police Inspectorate went to the home of the parents and neighbors of activist Mihai Bumbuş and interrogated them without a warrant²⁴. The police officers were dressed in plain clothes and asked questions about the activist's personal life and an alleged ownership of firearms²⁵.

The police officers asked Mrs. Bumbuş "how often her son came home", "whether he had a car and a driver's license", "when he had last visited home", "whether he owned any firearms"²⁶. When the woman refused to respond to the police officers, they threatened and blackmailed her, telling her that she had to go to the police station in order to give them statements, otherwise her son would get hurt. The four police officers also went to the local surgery, where they demanded that the nurse provide them with information included in Bumbuş's medical chart.

ActiveWatch and the Spiritual Militia demanded the Argeş Police to publicly disclose the warrant that allowed such action and to present the indications according to which Mihai Bumbuş owned a gun. The activist filed a complaint with the Public Prosecutor's Office attached to the Piteşti Court of Appeals.

The Public Prosecutor's Office's resolution of December 12, 2012 identifies the four police officers who paid a visit to the Bumbuş family. According to the information obtained by the prosecutors, the police officers' visit was carried out on the basis of a request of the Bucharest Protection and Security Service to the Argeş Police Inspectorate. The objective was to obtain information with respect to Mihail Bumbuş's legal ownership of weapons, the existence of certain pursuits of Mr. Bumbuş with respect to procuring weapons and to provide data regarding his behaviour.

Judicial pressures upon the press

Two Jurnalul Naţional journalists found their names in the charge drawn up by the DIICOT prosecutors in the case file of deputy Boldea, sued for fraud, for the establishment of an organized crime group and for other crimes. The case file includes transcripts of telephone conversations between one of the defendants (Boza Bogdan Alexandru) and two Jurnalul Naţional journalists. One of them is mentioned by full name, the other is identified by initials.

The case file's content reveals that the publication and the two journalists carried out a press campaign at the command of one of the defendants in the file, that they exerted pressures and acted at the command and in the interest of the defendants. The prosecutors' statements doubt the journalists' good faith and accuse them of having responded to the defendants' requests and having drawn up journalistic works, not in order to inform the public with respect to a subject of public interest, but in order to intimidate the prosecutors investigating such case²⁷.

The only accusation supported by any evidence is the one made against defendant Boza (*"seeking the exertion of pressures upon the investigation bodies"*²⁸), but that accusation is also expended upon the journalists, without any solid evidence being brought to that effect. The only situation in which the journalist could be accused of complicity with the defendant would be that the former did not seem to be bothered by the purpose sought by the defendant, when the latter explicitly formulated it *"But he... did you... did you feel that he understood what it was all about? I don't mind him knowing, because I honestly intend to intimidate those guys... I mean..."*²⁹.

A third journalist is mentioned in the Public Prosecutor's charge, where he is identified with the initials S.O. The journalist works for the online publication Lumea Justiţiei, Luju.ro. He was also accused by the prosecutors of helping the defendants by publishing compromising materials regarding the prosecutors who were investigating the Boldea case, but there are no pieces of evidence whatsoever in support of such claims. The only evidence also consists in conversations that the journalist had with Boza, which conversations not only do not support the prosecutors' claims, but also do not cross the limits of a common dialogue between and journalist and his/her source to any extent whatsoever. The response provided by the Judicial Inspectorate to the ActiveWatch organization, which had requested an investigation in this case, reveals that the third journalist is Răzvan Savaliuc, of Luju.ro.

ActiveWatch notified the judicial system's investigative bodies, considering that the prosecutors' claims regarding the journalists risked seriously compromising the latter's professional reputation and contributing to a decrease in the credibility of the press: *"These are nothing but subjective assessments, which risk affecting the journalist's reputation. (...) These excerpts do not even support the serious accusations made by the prosecutors against the journalists and the publication for which they work. As the case file is public, these accusations risk causing serious prejudice to the professional reputation of the aforementioned journalists, as well as the publication for which they work. More seriously still, they risk casting a shadow of doubt over the entire journalistic guild, contributing to a decrease in the credibility of this profession"*³⁰.

In response to the notification of ActiveWatch, the Judicial Inspectorate launched an investigation. It found no indications regarding the breaching of any criminal procedure norms or other legal provisions and stated that *"the*

²³ "Open letter. Actions specific to political police, directed against a local journalist", ActiveWatch.ro, February 5, 2013.

²⁴ "2012 with a hint of the '80s or a story regarding the new-school political police", Mircea Toma, ActiveWatch.ro, March 7, 2012.

²⁵ "The Spiritual Militia demands the state's authorities to stop their political police practices", ActiveWatch.ro, March 6, 2012.

²⁶ Ibidem.

²⁷ ActiveWatch, September 11, 2012, Address to the DIICOT management.

²⁸ DIICOT Charge, July 27, 2012.

²⁹ Ibidem.

³⁰ Ibidem.

*interpretation of the submitted evidence (...) is the exclusive duty of the criminal investigation body and the magistrate is independent in his/her assessment with respect to how useful a piece of evidence is*³¹.

Journalist, unwillingly advanced to colonel

Another controversial subject was that of the journalists who were promoted by Defense Minister Gabriel Oprea. On June 21, the television station Antena 3 published a document of the National Defense Ministry, attesting to the fact that journalist Robert Turcescu had been promoted to colonel by the former Defense Minister, General Gabriel Oprea. The National Defense Ministry confirmed the existence of such document. Turcescu claimed that he was not aware of such promotion, that he had not been in the army and he had no military degree, so as to be promoted to colonel. His only connection to the Army could have been a good governance course graduated from the National Defense College in 2010 and a few lectures given at the same institution in 2011³².

In a letter addressed to the Minister of National Defense, Turcescu requested that the respective order should be annulled and that he should be returned to his status as a person with no military service, specifying that, should his request not be granted, he was going to sue the Ministry of National Defense. *"This situation is extremely damaging to my image, because it instills, in the public opinion's conscience, a false public identity*³³, Robert Turcescu stated, adding on his blog: *"[...] I did no military service, I do not have a military book and I am not registered with any recruiting or reservist center"*³⁴. At the beginning of August, Turcescu was informed by the Ministry of National Defense that the order by means of which he had been promoted to colonel was revoked³⁵.

According to Deputy Costică Canacheu, President of the Defense Committee of the Chamber of Deputies, the promotion practice had been widespread in the post-1989 period and had been used in favor of parliamentaries and government officials: *"This happened and it was almost a custom during these 20 years. Usually, as far as I know, individuals who obtain high ranks, either in the Parliament or in the government or in other areas, are promoted in the military hierarchy. As I understood, it is some sort of tradition of the Ministry with respect to the individuals in the committees for the Defense, SIE Control or SRI Control, the ministers, the secretaries of state. They are promoted by means of an order of the Minister of Defense; I suspect that there have been hundreds, thousands of people over the last 16-18 years. There are probably accents, depending upon each minister's nature. It is a matter of tradition: when exaggerations appear, it is not all right, but it is a benign thing, nothing really happens"*³⁶. Another parliamentary, PNL Deputy Neculai Rebenciuc, claimed that all graduates from the National Defense College over the last two years were promoted or given military degrees³⁷. The Ministry of National Defense launched an investigation in this case and concluded that many of such promotions were performed illegally³⁸.

The One World photo exhibition, prohibited in the University passage way

The "Global revolution and occupy movements" photo exhibition was suspended by the Bucharest Streets Administration, because, in the authorities' opinion, the photographs "instigate violence and the passage way is not the proper place for such manifestations"³⁹. The exhibition had initially been approved by the same institution. The event was organized as part of the fifth edition of the documentary film festival dedicated to human rights, One World Romania, and it contains images from eight countries in which revolutionary movements took place beginning with year 2011.

The exhibition had a written approval, signed on February 13, 2012, by the manager of the Streets' Administration. The petition addressed by the One World România organizers specified: "we believe that such an exhibition does not belong in a conventional exhibition space and the space that we find the most appropriate is the University Square's pedestrian passage way"⁴⁰. However, the activity was suspended one day after it had been approved, pursuant to certain complaints received by the Community Police. One of the reasons invoked was that of the violation of the Passage Way's Internal Regulation, according to which the presence of sandwich board people in the passage way is prohibited.

Agerpres punishes the journalists who ask uncomfortable questions

At the beginning of July, Agerpres (the publicly funded news agency) journalist Claudiu Zamfir, accredited at the Government, sent a set of questions to the Press Office of the prime minister, to Andrei Zaharescu, spokesperson of the Executive and to Anca Alexandrescu, the head of said institution's communication department⁴¹. Claudiu Zamfir requested information on the salary of General Wesley Clark, former NATO commander and recent occupant of the position of Victor Ponta's honorary security and economy advisor. Clark is a member of the management of an oil

31 Superior Council of Magistracy's Judicial Inspectorate, Response to the petition addressed by ActiveWatch, September 29, 2012.

32 "ATAC. Gădea: Turcescu is a colone!! Turcescu: Shoot yourselves in the head!", Carmen Maria Andronache, PaginaDeMedia.ro, June 21, 2012.

33 "The Ministry of National Defense confirms: Robert Turcescu is a lieutenant-colonel on reserve status. Turcescu: It is a regrettable error", Carmen Maria Andronache, PaginaDeMedia.ro, June 22, 2012.

34 "The bullet, you bastards! The Ministry of National Defense confirms that an error was committed in the <<Turcescu - colonel>> case!", Robert Turcescu, Turcescu.ro, July 26, 2012.

35 Ibidem.

36 "The Colonel epidemic: Hundreds of officials, turned officers overnight. <<You can become one unknowingly >>", Ovidiu Albu, Ziare.com, June 26, 2012.

37 Ibidem.

38 "The scandal of the colonels on reserve status: Hundreds of promotions were performed illegally", Ziare.com, August 3, 2012.

39 "Photo exhibition in the University Square: approved in writing, suspended verbally", Jurnalul.ro, March 14, 2012.

40 Ibidem.

41 "What the Agerpres journalists risk if they ask the Ponta Government any uncomfortable questions", Andreea Pocotilă, RomaniaLiberă.ro, July 18, 2012.

company that performs operations in the field of shale gases in Poland⁴². A few hours after sending his questions by e-mail, the journalist's bosses announced him that he was no longer in charge of Government-related issues. At the time, other Agerpres sources told România Liberă⁴³ that the bosses mentioned the e-mail sent by the journalist as the reason for their decision.

Contacted by ActiveWatch, the Agerpres deputy general manager, Argentina Traicu, declared that "Mr. Claudiu Zamfir has not been sanctioned and the decision to revoke his credentials does not have political connotations, but is merely a measure of internal reorganization. We have not prevented the publication of any information"⁴⁴. However, the Agerpres representative refused to release any details with respect to the invoked internal reorganization.

On July 18, the Romanian Federation of Journalists MediaSind asked Prime-Minister Victor Ponta, by means of an open letter, "to end the political censorship within Agerpres"⁴⁵. They protested "against the excessive politicization of the National Press Agency Agerpres and the failure to comply with Law no. 19/2003 by illegally keeping the current interim general manager Ioan Roșca in office"⁴⁶ and "imposing an illegal and inhuman regulation upon the employees of the largest public press agency in the country, ANP Agerpres, which employees are turned into political slaves"⁴⁷.

In February 2013, the Ponta government replaced interim general manager Ioan Roșca with the head of PSD's press Office, Alex Giboi.⁴⁸

The Curentul newspaper no longer travels by the Romanian Railway Company (CFR Călători)

In July, CFR Călători, a company the sole shareholder of which is the Romanian state, terminated its distribution contract with the Curentul newspaper, invoking the fact that the publication made "political propaganda" and promoted "indecent and instigating messages against the state institutions", according to an address sent by the company, published on the social networks. The notification of the CFR Călători (Romanian Railway Company) company (signed by the Manager - Ecaterina Pricope, Head of Commercial Division - Leonte Florian, Head of Operating Division - Fabian Viorel, Head of Legal Department - Cerchez Ioan) claims that the Curentul newspaper breached its contractual obligations by publishing, on July 5, 9 and 11, 2012, certain materials "with a political propaganda connotation, which contain indecent and instigating messages against the institutions of Romanian state". Mirela Iacob, General Manager of the Curentul newspaper, stated that the publication signed no contract that in any way restricted the journalists' freedom of speech. According to the publication's manager, the restrictions invoked by CFR Călători for the termination of the contract in fact refer strictly to the columns reserved for the informative materials provided by S.N.T.F.C. CFR Călători, on the basis of the concluded distribution contract, without having any effect upon the overall editorial content of the newspaper. Under such circumstances, the representatives of the Curentul newspaper announced their intention to appeal CFR Călători's decision to terminate the distribution contract. Contacted by ActiveWatch, Ștefan Roșeanu, General Manager of CFR Călători, provided a point of view according to which "CFR Călători (Romanian Railway Company) did not and does not wish either to censor any political, social or economic message or to restrict Romanian citizens' access to information". Roșeanu also specified that "there is an image-content association between any publication distributed in the CFR Călători trains and the CFR Călători company" and that certain articles in Curentul would have breached a contractual provision according to which "By means of their content, the materials created under this contract shall not make any political or religious propaganda, they shall not contain messages which are obscene, indecent and/or which instigate violence, they shall not contain advertising for guns, ammunition, drugs, cigarettes or alcohol, they shall not conflict with the interests of SNTFC CFR Călători SA and they shall not engage in unfair competition with the specific activity of CFR Călători"⁴⁹.

The school wants them to cut their hair

The principal of the Bucharest high school Ion Neculce, Cătălina Olaru, refused, at the beginning of March, to allow two long-haired pupils, Andrei Nicolas Fiuciuc and Teodor Vasilescu, inside the school premises. The manager posted a message at the school's notice board, in which she announced that the two pupils "shall only be allowed inside the school after they cut their hair"⁵⁰.

Pursuant to ActiveWatch's notification of the National Council for the Prevention of Discrimination (CNCD), this institution decided that the provisions regarding the correct hair length for boys, as they appeared in the institution's Internal Regulation, were abusive. Moreover, CNCD considered that the posting, on the school's notice board, of the decision which prohibited the pupils from going to class, represents a labeling and can be perceived by the targeted teenagers as being humiliating and degrading⁵¹.

42 "Who is Wesley Clark, Ponta's strategic issue advisor: member of the management of an oil company 20% of the shares of which are owned by Soros. The company conducts shale gas business in Poland", V.M., HotNews.ro, July 5, 2012.

43 "What the Agerpres journalists risk if they ask the Ponta Government any uncomfortable questions", Andreea Pocotilă, RomaniaLiberă.ro, July 18, 2012.

44 "Government pressures at Agerpres", ActiveWatch.ro, July 18, 2012.

45 "FRJ MediaSind requests Prime-Minister Victor Ponta to end political censorship within Agerpres", MediaSind.ro, July 18, 2012.

46 Ibidem.

47 Ibidem.

48 "The head of PSD's press Office, proposed for the position of general manager of Agerpres", Carmen Maria Andronache, PaginadeMedia.ro apud Mediafax.ro, February 25, 2013.

49 "Suspensions of political censorship exerted by CFR Călători/ UPDATE: Position of CFR Călători", ActiveWatch.ro, July 17, 2012.

50 "The school wants you to cut your hair. Astonishing photographs and testimonies of the pupils whom the principal no longer allows in class with their hair long", Cristina Lica, Evz.ro, March 6, 2012.

51 "The Ion Neculce high school: sanctioned with a warning by CNCD as a result of a notification sent by ActiveWatch", ActiveWatch.ro, November 29, 2012.

The high school was sanctioned with a warning and advised to adjust the "Internal Regulation" with the provisions of the "Regulation for the organization and operation of the pre-school learning institutions", as well as with the anti-discrimination legislation in force⁵².

Vocalist fined for statements made during the concert

Mihnea Blidariu, one of the two vocalists of the Luna Amară rock band, was asked to identify himself after the concert held by the band on June 29 at the Tuborg Green Fest/ Rock the City festival. "We dedicated the song «Blue» to the Bucharest Gendarmerie, mentioning that it was for the boys with shields and batons, who beat up innocent people in the University Square in January and February 2012. Then we said: if you want, you can raise your middle finger for the Bucharest Gendarmerie. After the concert, several gendarmes waited for me at the backstage entrance, asked me to identify myself and told me that they shall fine me for insults directed at the enforcement officers, according to Law no. 61/1991, article 3, point 1. I asked them what they meant and they said it was with respect to the claims about the beating up of innocent people; after I showed my surprise with respect to that claim, they mentioned the «middle finger» moment... I refused to sign the protocol and left", said Blidariu⁵³.

Billboard against the Roșia Montana Gold Corporation excavation, demolished by the 3rd District Mayor's Office

On November 14, a crew of the 3rd district's Local Police and a representative of the 3rd district's Construction Inspectorate abusively demolished a street billboard militating against the Roșia Montană cyanide mining operation. The billboard was part of a campaign of the Alburnus Maior non-governmental organization, together with the advertising agency Papaya Advertising. The billboard's message was addressed to the Romanian Prime Minister: "Citizen Victor Ponta, do you take Ms. Cyanide to be your wife?", "YES or NO questions do exist. The electorate is waiting for an answer until December 9, at 7 o'clock"⁵⁴. The billboard included a link to the rosiamontana.net website, which informs and collects public endorsements against the cyanide mining operations on the Romanian territory⁵⁵.

The campaign's representatives said that no one received any written document regarding the reasons for the dismantling. Dorina Iordache, representative of the 3rd district's Construction Inspectorate, stated that the decision was made by the district's Mayor⁵⁶, Robert Negoită.

Censorship in the university environment?

Radu Golban, associate professor at the Timișoara Western University (UVT), the department of Political Sciences, Philosophy and Communication Sciences, claims that the University failed to extend his collaboration contract because of his publicistic activity. According to Golban, Alexandru Jădăneanț, head of the Department of Political Sciences of the Faculty for Political Sciences, claimed that the UVT "*did not wish to collaborate with said individual because of the articles written by him in the press, directed against Germany*", a statement which was also recorded in the minutes of the October 23, 2012 Board Meeting of the Faculty for Political Sciences.

Contacted by FreeEx, one of the members of the teaching staff who participated in said meeting confirmed the existence of said claims, but emphasized that during said meeting, no decision was made with respect to the extension or ceasing of the collaboration with R. Golban. Golban considers that the dispute occurred after the publication of his latest book, "*The Europe hologram - Germany's foreign policy*".

The director of the University's Central Library, Vasile Docea, claimed that the only reason for failing to extend the contract was the poor financial condition of the faculty, which could not afford to continue its collaboration with the outside partners, even though the only outside collaborator whose contract was not extended was R. Golban⁵⁷.

He filed a criminal complaint against A. Jădăneanț for his abuse of office. UVT's Ethics Committee did not find any irregularities in the UVT's decisions that provide for the non-extension of the collaboration with Golban, but did not present any opinion with respect to the reason given by Jădăneanț for failing to extend the collaboration.

I.2. Political pressures

The President's war with the press

In a series of public appearances, in July 2012, suspended President Traian Băsescu attacked the press, insulting the journalists. He also made claims containing accusations of manipulation against a Romanian media trust.

⁵² Ibidem.

⁵³ "*The Luna Amara vocalist, fined by the Gendarmerie at Rock The City*", MetalHead.ro, July 1, 2012.

⁵⁴ "*Mesh with Victor Ponta against the Rosia Montana project, demolished by the Mayor's Office*", Adplayers.ro, November 16, 2012.

⁵⁵ Ibidem.

⁵⁶ "*Ponta, the Police, the Construction Inspectorate, the Mayor's Office and the press joined hands over the country. And they silenced everyone*", Mihai Goțiu, VoxPublica.ro, November 18, 2012.

⁵⁷ "*The famous economist Radu Golban - humiliated in Timișoara*", Ovidiu Mărăscu, ZiuadeVest.ro, November 22, 2012.

In a televised debate, during the campaign for the president's removal's referendum, Traian Băsescu identified the media as responsible for the society's fracture: *"The people say that politics split the society in two. That is not true. It was the media that split the society in two"*⁵⁸.

Traian Băsescu asked Romanians to stop watching the Antena 1, 2 and 3 broadcasts. *"I speak to you and ask you to understand that you are obligated to conduct an exercise. One that the Romanians' chosen president is asking of you: Stop watching the Antena broadcasts for one week! I assure you that if you do this, you will start seeing the real Romania, with its troubles, its problems, its need to have a solidary nation in order to reach its objectives"*⁵⁹, said the suspended president. Traian Băsescu's claim was made on July 29, the day of the referendum regarding the president's removal from office.

Invited on a România TV show, Traian Băsescu made the following statements: *"One of the reasons I talked about the media being a weakness against national security was related to what the Intact trust is doing"*.

President Traian Băsescu openly accused the owner of the România TV television station, Sebastian Ghiță, of blackmail and warned him that he shall lose contracts with the state. *"Man, you are going to lose many contracts with the state; you cannot use the state's money to commit blackmail"*⁶⁰.

During a meeting with the Social Dialogue Group, Traian Băsescu insulted the journalists on the grounds that they attacked intellectuals (see the chapter on Acts of aggression, threats, insults). *"I saw fine intellectuals, brilliant minds, being attacked every night by the press hoodlums for not thinking the same way they did. And when I say hoodlums, I am perfectly aware of the meaning of this term"*, he said⁶¹.

Censorship at România literară

University professor Rodica Zafiu ceased her collaboration with the "România literară" magazine (published by the Romanian Writers Association) after the publication's director, Nicolae Manolescu, refused to publish one of her articles about Prime Minister Victor Ponta's plagiarism. Nicolae Manolescu is the head of the Romanian Writers Association and Romania's ambassador to UNESCO. The article entitled "The stylistics of plagiarism"⁶² was deleted from the website one day after its publication, while its publication in the printed edition was refused. Subsequently published in the "Dilema Veche" magazine, the article harshly criticizes the scientific paper published by Prime Minister Victor Ponta.

At the time, Nicolae Manolescu stated that he did not publish Rodica Zafiu's piece because "it is not normal to meddle in or to speak about matters that are being discussed or analyzed by a state body"⁶³.

Zafiu had been writing for România literară for over 30 years and said that: "until now, none of my articles has ever been refused. (...) Without announcing me and without giving me any explanation, Nicolae Manolescu deleted one of my articles from the magazine. Why? Because it criticized the current governors' attitude towards culture"⁶⁴.

USL wants censorship

In the middle of the election campaign, the Ocna Mureș subsidiary of the Social Liberal Union asked a journalist to withdraw all of his articles and comments regarding the USL candidates.

On May 2, USL's local press office sent, during the election campaign for the local elections, a press release in which it was asking Arad-based journalist Kolozsvari Csaba, owner and administrator of the OcnaMuresonline.ro website, *"to withdraw all articles and comments published on the website to this date, which used the name, the profession, the position held by the candidates" of USL*⁶⁵. According to the same press release, *"USL's Press Office, following the evolution of the articles and comments published on the OcnaMuresonline.ro website, finds that the the equidistance claimed by you [reference is made to the journalist - our note] has vanished and the website's orientation in supporting the PD-L candidate is obvious"*.

After discussing with the journalist and the PNL mayor Augustin Drăguț, from Ocna Mureș, ActiveWatch was told that the apple of discord was represented by certain readers' comments, and not by the articles on the website. One of the mayor's lawyers asked Kolozsvari to moderate the negative, groundless and insulting comments directed against the mayor or to disclose the commentators' IP address, in order to sue them. The journalist refused.

TVR censors an election spot

In November 2012, the Romanian television refused to broadcast a spot for the parliamentary elections of the Hungarian People's Party in Transylvania (PPMT). The spot contained the following message: *"We were not allowed in the Schengen area because of the high-level corruption. And we do not like that. Our boss is the IMF. We do not like that. Is Romania too big for politicians or are the leaders too small for Romania? We have solutions. To take our fate*

⁵⁸ "Băsescu to Sebastian Ghiță: <<Man, you are going to lose many contracts with the state >>", Iulia Bunea, PaginaDeMedia.ro, July 24, 2012.

⁵⁹ "Press release. Traian Băsescu asked Romanian to stop watching the Antena television", ActiveWatch.ro, July 31, 2012.

⁶⁰ "Traian Băsescu, about a television station owner: <<Man, you are going to lose many contracts with the state! You are a blackmailer>>", Gândul.info, July 23, 2012.

⁶¹ "Băsescu, annoyed by <<the press hoodlums>> who attack, on television, <<the country's fine intellectuals>>", Clarice Dinu, Gândul.info, September 18, 2012.

⁶² "Stylistics of plagiarism", Rodica Zafiu, DilemaVeche.ro, July 9, 2012.

⁶³ "Manolescu censors an article on plagiarism", Dan Boicea, Adevarul.ro, July 9, 2012.

⁶⁴ "Miners' revolt in culture. An article refused by «România literară»", Alex Ștefănescu, Evz.ro, November 17, 2012.

⁶⁵ "The USL Ocna Mureș press release is an abuse!" Press Monitoring Agency>>, Ocnamuresonline.ro, May 8, 2012.

into our own hands. We want a European Transylvania in a federal Romania! We want autonomy. On December 9, vote the Transylvanian solution for Romania. Vote the Hungarian People's Party in Transylvania!"⁶⁶.

According to a press release of the PPMT, TVR refused to broadcast the spot because the coordinator of the TVR shows for electoral promotion verbally informed the territorial studios of the public television that said spot infringed upon the provisions of the Constitution. ActiveWatch requested the public television to reconsider its decision and asked the National Council of the Audiovisual to intervene. "We believe that invoking the argument of the <<infringement upon the constitutional order>> in order to put an end to the election spot is an abuse and an act of censorship likely to severely affect the process of the election campaign. The statements in the spot are judged by being taken out of the context of the general campaign of the PPMT - information that is accessible to anyone, including a journalist with a duty of editorial coordination. The campaign explicitly speaks of <<peaceful and democratic means until the reaching of the final objective [...] autonomy>> (press release of the PPMT). The Romanian Constitution provides for the <<peaceful and democratic>> means by which any article of fundamental law can be changed"⁶⁷ - ActiveWatch publicly conveyed.

In response, Ion Stavre, coordinator of the TVR election campaign programs, stated: "As a result of the legislation in force, the spot sent for broadcasting by the Hungarian People's Party in Transylvania to the regional studios of TVR in Timișoara and Cluj Napoca was subjected to a content analysis (media research method taught during the first two years of college in journalism). This method of analysis was applied to all spots sent by the parties in the election campaign. According to such analysis, the contents of the election spot sent in by PPMT fail to comply with article 11, paragraph 5 of Decision 738/2012. As a consequence, PPMT is asked to change the contents of the spot in order to comply with the legal provisions. The decision of TVR may be appealed at the National Council of the Audiovisual, the authority that issued Decision no. 738 of November 1, 2012"⁶⁸.

Răsvan Popescu, president of the NCA, told ActiveWatch that "the NCA has no legal competence to present its opinion with respect to the decision made by TVR in the case of said spot".

Parliamentary thrown out from the December 1st Presidential reception

Liberal senator Ioan Ghișe was thrown out of the reception organized on the National Day at the Presidential Cotroceni Palace, for trying to remove his shirt and tie and to wear a T-shirt with a critical message written on it, protesting against the President ("The people have said so, Bănescu must go!" - referring to the July referendum).

The President's spokesman, Bogdan Oprea, stated that the liberal senator was removed because he was bothering the other guests: "Imagine what it would have been like if Mr. Ghișe also took his trousers off, in the presence of the ambassadors' wives, the high pontiffs of the various religions and the other officials present. A certain decorum must be observed at events of this kind"⁶⁹.

Oprea told FreeEx that the enforcement officers are obligated to prevent incidents, not only to intervene after their occurrence. "I can assure you that the enforcement officers decided to end the gesture before it escalated."

The Romanian Constitution sanctions the citizens' rights to peacefully protest. According to article 30 of the fundamental Law, "(1) The freedom to express one's thoughts, opinions or beliefs and the freedom of creations of any kind, by word of mouth, in writing, by images, sounds or other means of communication in public, are inviolable. (2) Censorship of any kind is prohibited."

I.3. The politicization of the journalistic speech

The extreme polarization of the press around the political factions was transparently undertaken by certain journalists, who played the role of party propagandists, rather than that of critical observers of the power structures. The news channels were the most efficient group in this political and mediatic battle, and a correspondence existed between the political position of the owners and the editorial speech.

Journalists mediatically and politically lynched

The political changes occurred during the summer entailed a series of political attacks against journalists with critical views on the USL governance. Carmen Valică, correspondent of România Actualități in Bruxelles⁷⁰, Liliana Ciobanu, freelance journalist and collaborator of CNN and The Economist⁷¹, Vlad Odobescu, YahooNews editor, Raul Sanchez Costa, of the El Pais daily (former scholar of the Romanian Cultural Institute), Mirel Bran (correspondent of the French daily Le Monde), Valentina Pop (EU Observer) were accused in Cotidianul.ro⁷² of manipulating the overseas public opinion in favor of president Traian Bănescu, being members of a "conspiracy" against the Social Liberal Union. They were called "anti-Romanian agents" supporting the president, paid by the Romanian Cultural Institute.

Also, Carmen Valică, correspondent of the public radio in Brussels, was accused by PSD senator Dan Șova of misinforming Viviane Reding, European Commissioner for Justice. Cotidianul.ro took over the information without asking

⁶⁶ "TVR censors an election spot. UPDATE: Position of the public television", ActiveWatch.ro, November 25, 2012.

⁶⁷ "TVR censors an election spot. UPDATE: Position of the public television", ActiveWatch.ro, November 25, 2012.

⁶⁸ Ibidem.

⁶⁹ "Censorship at the highest level, on the National Day Protocol is NOT above the law!", ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, November 30, 2012.

⁷⁰ "How the European Commission was intoxicated by the RRA correspondent in Brussels", Cotidianul.ro, July 7, 2012.

⁷¹ "The Economist is in fact Liliana Ciobanu, former Realitatea TV reporter", Cotidianul.ro, July 8, 2012.

⁷² "Vlad Odobescu of Dilema Veche smears Romanians in the Washington Post", Cotidianul.ro, August 31, 2012.

the journalist for any personal point of view. She filed a lawsuit for defamation against the senator and minister Dan Şova, who undertook and perpetuated the accusations, against Cornel Nistorescu and cotidianul.ro, as well as against Vlad Dumitraş, editor of cotidianul.ro (most likely a pseudonym) without any evidence, on television. "Nobody apologized and Cotidianul.ro did not publish any right of reply. Furthermore, after the new report on justice issues (our note: the report of the Co-operation and Verification Mechanism), Mihai Gâdea of Antena 3 reiterated the accusations at length. I sent them a right of rebuttal, but they did not publish that one either", Valică told us. The lawsuit started in April 2013.

In her turn, Liliana Ciobanu, freelance journalist (CNN correspondent and collaborator of The Economist), was accused of being paid by the intelligence agencies, of writing undercover and of receiving financing from the state for her company. Between June and July 2012, she wrote several articles on the Romanian political situation, the Prime Minister's plagiarism and the conflict between Victor Ponta and Traian Băsescu. After publishing the articles, the journalist received a series of telephone calls from restricted numbers, saying "You are being watched!".

At the same time, the Cotidianul.ro online publication wrote about her: "Another anti-Romanian agent is discovered by cotidianul.ro. The Economist is, in fact, Liliana Ciobanu, former Realitatea TV reporter. The case of Liliana Ciobanu proves, as clearly as possible, the method by which such agents disinform Romanian public opinion, exerting an artificial pressure in political life. Thus, Liliana Ciobanu positions herself at the head of the list of misinformants paid for such services, together with Carmen Valică of Radio România, Professor Kim Lane Scheppele of the Princeton University, Bulgarian Alexander Levy and ICR scholar Raul Sanchez Costa. That, in a list which certainly remains open."⁷³, Cotidianul wrote. Liliana Ciobanu sent a right of rebuttal - not published by Cotidianul.ro - in which she contradicted the accusations⁷⁴, but the journalist relinquished the lawsuit against the newspaper, because of the court expenses.

Mirel Bran, Romanian correspondent of the French daily Le Monde, was denigrated by Cotidianul.ro for expressing criticism with respect to the measures taken by the USL majority during the political crisis in the summer of 2012. Bran was accused of being an "agent of influence (...) recruited in the network of PDL political agents and Traian Băsescu"⁷⁵ and the invoked "evidence" was the publication of one of his books by the Humanitas publishing house, which is managed by Gabriel Liiceanu, one of president Băsescu's former supporters. Cotidianul.ro continues its argumentation by referring to the fact that Bran's book was translated and published by the Romanian Cultural Institute in France and in the USA, which, in the opinion of Cotidianul.ro, indicates that Mirel Bran "supports political party interests". "It is no longer a surprise that almost all articles in the foreign press, which talk about the "coup d'etat" in Romania, were written by Romanian journalists paid by institutions that use public money to support political party interests", wrote Cotidianul.ro.

Spanish citizen Raul Sanchez Costa, of the El Pais daily (former scholar of the Romanian Cultural Institute), who published the Prime Minister Victor Ponta interview on plagiarism, was also accused by cotidianul.ro of being a "press agent of the Băsescu regime".

In July, ActiveWatch and the Center for Independent Journalism (CIJ) organized a press conference in order to clarify the situation of the journalists accused of "destroying" Romania's image. ActiveWatch and CIJ classified the ungrounded accusations against the journalists as a "political witch hunt". "These are attempts at drawing the public's attention away from certain issues. They are building the image of an international network of conspirators", declared Mircea Toma, president of ActiveWatch.

Journalists who are politicians and politicians who are journalists

The "incestuous" relationship between the press and the politics has become such a commonplace phenomenon that no one was surprised by the fact that an enormous number of media people ran in the 2012 parliamentary elections, on behalf of political parties. The situation confirms the excessive politicization that infested the media industry and merely contributes to a decrease in the credibility of the press.

In the new legislature, we encounter, in the parliament, a number of former journalists or media owners, including: Sorin Roşca Stănescu (PNL senator, former manager and shareholder of the Ziua daily and other publications), Gabriela Vrânceanu Firea (PC senator, former TVR news anchor and moderator at Antena1 and Antena3), Tudor Barbu (PP-DD deputy, former OTV journalist), Sebastian Ghiţă (PSD deputy, owner of România TV and other local publications), Dan Voiculescu (PC senator, owner of the Intact trust, through his family).

Rareş Bogdan, one of the celebrities of the RealitateaTV station, was the protagonist of an event turned into a media show. On October 19, PNL's Executive National Committee included him on the list in order to run in the parliamentary elections on December 90. The journalist said he felt honored by the offer and asked for some time to analyze the proposal: "*I do not know whether this is the right time for me, but it definitely is an honor*"⁷⁶, he declared. The moment of the announcement was turned by RealitateaTV into a media show, with a set full of guests, some meant to convince the journalist to run, the others to support the continuation of his journalistic activity. Rareş Bogdan ended the suspense, announcing that he will remain at his fellow journalists' side.⁷⁷

73 "Another anti-Romanian agent is discovered by Cotidianul.ro. <<The Economist>> is, in fact, Liliana Ciobanu, former Realitatea TV reporter", Ion Spănu, Cotidianul.ro, July 8, 2012.

74 "Request of a right of rebuttal. Liliana Ciobanu vs Cotidianul", ActiveWatch.ro, July 9, 2012.

75 "Mirel Bran, <<Le Monde>> correspondent, subscriber to the ICR money", Ion Spănu, July 24, 2012.

76 "Rareş Bogdan: I shall announce next week whether or not I decide to run for Parliament", Realitatea.net, October 20, 2012.

77 "Rareş Bogdan declines Antonescu's offer": <<I shall continue my activity as a journalist >>", Realitatea.net, October 22, 2012.

Over time, three mayors of significant cities went into politics, also by means of the press: Iulian Bădescu (mayor of Ploiești), Radu Mazăre (mayor of Constanța), Lia Olguța Vasilescu (mayor of Craiova).

One of the political parties that recently joined the Parliament bears the name of a journalist, The People's Party - Dan Diaconescu, the latter being the owner and the celebrity of the OTV television station. Other former journalists who have joined the political ranks over the last years are: PD-L Euro-parliamentary Traian Răzvan Ungureanu (formerly at the BBC), Cristian Pătrășconiu (the Christian-Democratic Foundation, former journalist at Evenimentul zilei), Cozmin Gușă (former President of the National Initiative Party, owner of Realitatea TV), Cristina Topescu (former journalist, PSD member).

The reverse route also applies - we have politicians who became political talk show moderators, such as Lavinia Șandru, former leader of the National Initiative Party, who, at the beginning of 2013, took over the position of moderator of a Realitatea TV show.

"Protesters" paid by the news televisions

Schoolmistress Cristiana Anghel, who went on a hunger strike in 2012, when the Boc Government cut the salaries of the public employees by 25%, became famous due to the story's media coverage on Antena3 in 2011 and 2012. The assets and wealth declaration reveals that Anghel was paid the amount of Lei 13,613 (around 3000 euros) in 2011 by Antena3 to participate in its shows. In 2012, Cristiana Anghel became a USL senator.

PNL referendum stenographs

The stenographs of the PNL campaign staff meetings during the campaign for the referendum regarding the removal of the President from office revealed the manner in which a television station's editorial agenda was set out by the USL campaign staff. *"I propose a meeting between Relu Fenechiu, Dan Motreanu, Mihai Voicu (high level PNL politicians) and our press, in order to establish a target. I'm interested in focusing on the removal from office, without any debates.[...] They will not produce any shows on commission, we must give them subjects on the shenanigans going on within the ministries"*⁷⁸, declared Relu Fenechiu, according to the stenographs. The stenographs also include a list of civil society VIPs proposed by PNL to participate in the TVR Info (public TV news channel) shows (Daniel Dăianu, Ilie Șerbănescu, Stelian Tănase, Cristian Părvulescu, Dinu Giurescu, Alex Cumpănașu, Radu Călin Cristea, Dan Pavel, Zoe Petre).

Decorated at the Olympics, insulted by the journalists

Even the Olympics winners were victims of this political-mediatic conflict. After winning the silver medal in the judo category of the London Olympics, sportswoman Alina Dumitru answered the journalists' questions about her presence at the referendum for the president's removal from office. The sportswoman declared that she did not vote, which enraged Victor Ciutacu, Antena2 moderator, guest at the Antena3 debate shows and Jurnalul Național editor. Ciutacu commented on his twitter account: *"The idol of the snobs with internet access, Alina Dumitru, is vexed that she received no phone call from either the suspended, or the interim president. If she doesn't vote, she should stay out of it. (...) She should shut the hell up instead of being pissed off that the high dignitaries did not call her. She will get money from the state for her medal."*⁷⁹ His trust colleague, Mircea Badea, commented: *"Her voting hand is sore, since the Brazilian performed an armlock on her and didn't let her score any points whatsoever"*⁸⁰.

The People's Party television

During the spring and the summer of 2012, the NCA repeatedly decided to halve the television's broadcasting license as a result of the publicity made by OTV to the People's Party - Dan Diaconescu (PPDD). The license was to expire in April 2013. Dan Diaconescu, the owner and the celebrity of the television, claims that he is not a member of the party, which only bears his name⁸¹. Dan Diaconescu was the host of a politically themed show, broadcast every night, in which he was presented and he introduced himself as "the future president of Romania". *"OTV is the television of the People's Party, but why do they not fine all party televisions, B1, those of UNPR and so on?"*, said Dan Diaconescu at the "Last Hour" show on România TV⁸².

Government-opposition on TV

The NCA's monitoring is further proof of the overt political partisanship practiced by televisions, and especially news televisions. Significant editorial imbalances were registered over the entire year. In January, when the street protests against the Boc government started, the NCA monitoring showed a polarizing of television stations⁸³:

⁷⁸ "PNL referendum campaign stenographs", ImparțialdeBacău.ro, July 11, 2012.

⁷⁹ "Ciutacu mopped the floor with judo champion Alina Dumitru", Adevărul.ro, July 30, 2012.

⁸⁰ Ibidem.

⁸¹ "OTV received the most drastic punishment from the NCA: it is only allowed to broadcast until September 28, 2012, because of the political publicity", Costin Ionescu, HotNews.ro, March 27, 2012.

⁸² "Dan Diaconescu, after the NCA decision: They received an ultimatum from Bădescu to shut us down", RTV.net, March 15, 2012.

⁸³ "Antena 3 - fined with Lei 25,000, and TVR 1 and Realitatea TV - Lei 5,000 each for political imbalance in the debate shows", V.O., HotNews.ro, March 22, 2012.

- **TVR 1:** governance - 21 (PD-L), parliamentary opposition - 11 (USL), independent candidates - 4
- **TVR 2:** governance - 8 (PD-L), parliamentary opposition - 2 (USL)
- **TVR Info:** governance - 83 (PD-L), parliamentary opposition - 70 (USL), non-parliamentary parties - 3, independent candidates - 3
- **Antena 3:** governance - 20 (PD-L), parliamentary opposition - 229 (USL), non-parliamentary parties - 2, independent candidates - 7
- **B1 TV:** governance 70 (PD-L), parliamentary opposition - 59 (USL), non-parliamentary parties - 8, independent candidates - 2
- **Realitatea TV:** governance - 130 (PD-L), parliamentary opposition - 143 (USL), non-parliamentary parties - 16, independent candidates - 3, minorities - 2
- **România TV:** governance - 86 (PD-L), parliamentary opposition - 139 (USL), non-parliamentary parties - 22, independent candidates - 6, minorities - 2
- **OTV:** governance - 4, parliamentary opposition - 2, non-parliamentary parties - 57 all - People's Party, minorities - 1

During the local elections campaign, the results of the monitoring showed similar figures, but in the meantime, the parliamentary majority had changed and the USL government had come to power. The USL representatives had the most frequent appearances in the informative shows on the main central television stations that participated in the election campaign, between May 11 and 31, according to an NCA monitoring. Thus, on Antena 3, USL had 162 appearances in informative shows, Sorin Oprescu (independent, but close to PSD) - 32, PDL - 64 and UDMR - 10. On Realitatea TV, USL had 144 appearances, Sorin Oprescu - 21, PDL - 61, UNPR - 23. On România TV, USL had 271 appearances, PDL - 219, Sorin Oprescu - 37, UNPR - 50. On B1 TV, USL had 95 appearances in informative shows, Sorin Oprescu - 28, PDL - 86, UNPR - 10. USL also dominated in the informative shows of TVR 1 - 24 appearances, as opposed to 3 monitored appearances for the representatives of PDL, 4 - UNPR and 3 - UDMR, while on TVR Info, USL had 69 appearances, PDL - 12, UNPR - 14, UDMR - 7. On Digi 24, PDL was dominant, with 51 appearances, as compared to 28 in the case of the USL representatives, 8 - Sorin Oprescu, 16 - PPDD and 12 - each of UDMR and UNPR⁸⁴.

Election campaigns

The two election campaigns and the referendum campaign represented a new opportunity for the political figures and the mediatic camps to confront one another. Even though the election campaign could be an opportunity for essential debates on major themes of public interest, especially those related to the country's governance, they did not take place, as the debate of ideas and election programs was sacrificed in favor of the battle between the two political factions.

*"A closer look at all debates held between May 11 and June 8, 2012 shows us that the television sets were monopolized by politicians who either discussed the internal political games (statistical weight - 49%), or the progress of the local elections (statistical weight - 28%). The rest of the subjects of public interest, such as education, national economy or the health system, benefited from insignificant occurrences, which did not exceed the level of 5%."*⁸⁵

The NCA president (Răsvan Popescu) had notified this situation ever since the period of the local election campaign; Răsvan Popescu believed that *"televisions must improve the presence of the candidates in the election shows"* and comply with the legislation regulating the manner in which the election campaign is reflected⁸⁶.

The monitoring reports of the NCA and ActiveWatch⁸⁷ show strong imbalances in the portrayal of the political figures in the election campaigns. Antena3, România TV and Realitatea TV favored the USL alliance, while B1TV supported PD-L/ARD (the Right Romanian Alliance - ARD) and President Traian Băsescu. Many of these imbalances were sanctioned by the NCA throughout the three campaigns, but others were not, which led to a series of conflicts within the institution, inevitably accompanied by accusations of political subordination among the members of the Council. The aforementioned NCA monitoring reports illustrate the manner in which TVR public TV editorially oscillates after each change of the political majority.

USL also dominated the mediatic war, being supported by a stronger group of media institutions, the cumulated ratings of which greatly exceed the ratings of the press favoring the current opposition.

*"Electoral journalism has become a service subordinated to the campaign staffs. Many press professionals definitively gave in to the temptation of making or changing history"*⁸⁸, stated Ionuț Codreanu, coordinator of the ActiveWatch research on the election campaign's content in the media.

The OSCE report regarding the December parliamentary elections records this polarization of the press around the political groups, as well as a neglect of the political debate on themes of a public interest, to the detriment of sterile political scandals. *"The absence of a political debate was also reflected in the media during the campaign. Almost no program focused on any serious analyses with respect to political policies or expert comments. The dominant characteristic was the exchange of personal attacks and criticism between candidates, a tendency which was often supported by the radio broadcasters eager for good ratings"*⁸⁹, the OSCE stated.

⁸⁴ Briefly: USL - dominant in the informative TV shows in the election campaign. Heineken România shall move its media account. Billions of Euros spent on leaflets in Europe", V.O., HotNews.ro, June 5, 2012.

⁸⁵ "The democracy's evening prime-time. Journalistic ethics in the TV no. 4 programs", ActiveWatch, November 9, 2012.

⁸⁶ "NCA: Televisions must improve the candidates' presence in the election shows", mediafax.ro, May 16, 2012. <http://www.mediafax.ro/cultura-media/cna-televiziunile-trebuie-sa-imbunatateasca-prezentacandiatilor-in-emisiunile-electorale-9633112/>

⁸⁷ Parliamentary elections 2012, Final report, ActiveWatch, February 2013.

⁸⁸ "The summer of political temptations", Ionuț Codreanu, July 31, 2012.

⁸⁹ "OSCE report on the 2012 elections: the press, at the disposal of the political parties. Digi 24, a positive example", Iulia Bunea, January 18, 2013.

The campaign complaints

The candidates submitted fewer complaints with the NCA, as compared to other years. According to the former NCA president, the NCA registered 25 complaints, in case of most of which, the candidates/political parties, asked for a right of reply. There were no complaints with respect to the candidates' access to televisions.

Party televisions and journalists

The televisions pertaining to the Intact Trust were used, in election year 2012, as a USL political propaganda instrument. The political exploitation of the January 2012 manifestations, the concerted campaigns for the denigration of the CSM members and some of the members of the Constitutional Court, the attacks against the Romanian Cultural Institute, the campaign for the support of former Prime Minister Adrian Năstase, sent to prison, were only a few of the cases in which the Antena 3 television acted as a genuine "fifth column" of the political group established by former secret police collaborator Dan Voiculescu (the Conservative Party, member of the Social Liberal Union), former owner of the Intact Trust and the father of the current owner of the trust, Camelia Voiculescu. Several USL politicians thanked the Antena televisions for their support in the election campaign (Victor Ponta, Radu Stroe). These included Liviu Dragnea, USL's campaign manager, who conveyed "his thanks for the manner in which Antena 3 helped USL rise to power"⁹⁰. Antena 3 is the news television with the highest rating on a national level; its debate shows occupy 11 of the first 12 places in the ranking of ratings.

In November, journalist Grigore Cartianu, former editorial manager of Adevărul up to January 2013, launched a book on the removal of president Băsescu from office. At the book launching event, the journalist stated: *"This summer, I felt less like a journalist and more like a fighter in the land of democracy. This summer I felt like a soldier on the battlefield of truth"*⁹¹. During the same event, the owner and show moderator at the Nașul TV television, Radu Moraru, stated: *"With respect to the book's title, «Journal of a failed putsch», I want to say that it is not that they failed: we were the ones who managed to overthrow their plan, we made them fail"*⁹².

Journalist and editorialist Mircea Marian of the Evenimentul Zilei daily posted a comment on his Facebook page, expressing his disappointment with respect to the performance of one of the right-wing opposition leaders, Mihai Răzvan Ungureanu, who did not react in accordance to the journalist's expectations to a question that he admits to asking in order to give his interlocutor an opportunity to "attack" his political adversary. *"Băsescu can be a point of resistance, how should I say it, like a powerful fortress, but under siege; but he can no longer lead an offensive in order to recover the territories occupied by USL. I'm thinking, again, of the comparison with France in 1940. One must have a young general, who has proven that he is capable - de Gaulle, even if that is a risky comparison. Who, in the ARD, has that strength? Now, that it's over, I can say it: on Friday, on B1 TV, when I was on the show with MRU, we, the journalists, were on the verge of shooting ourselves. MRU had a clumsy and long speech. Dan Tapalagă passed me the ball - USL broke the agreement with the IMF - I passed the ball to MRU and, esteeeeemed viewers, MRU missed the ball!"*, said Mircea Marian.

The mediatic attacks against the politicians often crossed not only the limits of civilized language, but also those of the deontological framework. A series of accusations were made in the absence of any evidence, or without the presentation of the accused party's opinion.

Mircea Marian was also the one who, on October 22, published in Evenimentul Zilei an article complaining about the fact that a Tarom Bucharest-Brussels flight was delayed by 40 minutes, until Euro-parliamentary Daciana Sârbu, the wife of Prime Minister Victor Ponta, arrived on board. The article invokes "Euro-parliamentary PD-L sources".⁹³ Pursuant to a Tarom press release that mentioned that the flight in question left on time, Evenimentul Zilei apologized to newspaper's readers and to Daciana Sârbu for publishing erroneous information.

Curentul Journalist: I wrote over 300 surveys on commission

Dan Badea, former deputy editor-in-chief of the Curentul online daily, admitted that, over the two years he worked there, he had no editorial freedom and wrote over 300 surveys on commission. The journalist accused the owners of limiting freedom of speech, in accordance with their economic and political interests.

On October 1, 2012, Dan Badea was prevented from carrying out his publicistic activity, by the publication's owners, Mihai and Mirela Iacob. More specifically, his work equipment (his newsroom laptop and office telephone) was seized and his part as a journalist was limited to a mention of his name in the newsroom box. *"I was brutally prohibited from writing for the newspaper of Vasile Blaga and the "Oranges" who are mixed up in dubious business (...). Until today - November 25, 2012 - I have still not received my employment termination decision, but the hypocrites [our note: Mihai and Maria Iacob] kept me in their newsroom box, because it gives them credibility"*⁹⁴, Dan Badea declared in an article on his personal blog.

On his blog, Badea revealed the insults daily directed at him by Mirela Iacob and the pressures to which he was constantly subjected, so that, finally, he would sign articles which, despite having legal grounds, attacked political adversaries of the editorial management. *"I never imagined that a professional journalist could end up writing by*

⁹⁰ "5 members of the NCA to Ponta: Some NCA members supported the OTV propaganda", Mădălina Cerban, Mediafax.ro, December 13, 2012.

⁹¹ «Grigore Cartianu: <<I felt like a soldier on the battlefield of truth>>», Ionela Roșu, Adevărul.ro, November 21, 2012.

⁹² Ibidem.

⁹³ "The flight to Strasbourg, political controversy subject", Vlad Macovei, EvZ.ro, October 24, 2012.

⁹⁴ <http://badeadan.blogspot.ro/2012/11/cenzura-mihai-si-mirela-iacob.html>

dictation (...). But I was, indeed, writing. Therefore, I was some sort of cleaning man of the hypocrites, who, almost daily, bombarded me with messages, telephone calls or indications regarding what, how and how much to write, whom to call, whom not to call, what to say on the phone, what not to say on the phone etc.”⁹⁵. “There is no freedom of speech at Curentul; either that, or it has been/is strictly controlled as far as the political-financial or private interests of the owners are concerned”, motivates the former deputy editor-in-chief”, he also wrote.

Badea says that this situation appeared after he submitted a proposal for a survey that contradicted the owners' political interests. The harsh attacks against the owners of the press institution continue. The journalist requested the support of the Professional Journalists' Union, affiliated to the Romanian Journalists' Federation - MediaSind⁹⁶, in order to announce the abuse to which he was subjected.

Attacks between two USL politicians, both closely connected to the media

There were cases when political tensions from among a political alliance became visible as a result of mediatic conflicts between media entities owned by politicians. The first months of 2013 were marked by the mutual accusations between the two news televisions, Antena 3 and România TV, both controlled by politicians who are members of the USL governing coalition. Antena 3 is “controlled” by Dan Voiculescu (PNL-PC alliance) and România TV is managed by Sebastian Ghiță (PSD).

Despite being only slightly visible in the political speech, the mediatic conflict seems to have sufficient political reasons, as the two factions accuse one another of collaboration with the former secret police (Dan Voiculescu) or with the current intelligent services (S. Ghiță)⁹⁷. RTV repeatedly criticized the activity of certain liberal politicians, including USL leader Crin Antonescu. A collateral victim of this mediatic war was the the minister of Labor and Social protection, Mariana Câmpeanu (PNL), about whom RTV said that she was under investigation by the National Anticorruption Directorate (DNA) for acts of corruption, a claim which was unsupported by any evidence and was subsequently infirmed by the DNA.

The televisions had previously accused each other of theft of news, unethical editorial practices (the case of the illegitimate son of director S. Nicolaescu, see this report's Ethics chapter), and the Antena 3 celebrity, Mircea Badea, wished his colleague Cătălin Striblea of România TV to have a second stroke, while the latter was hospitalized⁹⁸.

I.4. Economic pressures

The Steaua club causes victims amongst journalists

On January 22, 2013, the management of the Evenimentul zilei daily demoted journalist Daniel Coțescu from his position as head of the Sports section, after he published an article on the Steaua club under the ownership of Gigi Becali (also an USL parliamentarian since 2012). **Simona Ionescu**, editor-in-chief for the newspaper, motivated the decision by invoking the fact that *“the article did not reflect what we had discussed in the briefing”*. Instead, the journalist accused them of editorial pressures and decided to resign, together with his deputy, Octavian Cojocaru, together with whom he had written the article in question. Coțescu accuses the management of sanctioning him because *“he failed to execute an order: that of being lenient with Gigi Becali”*⁹⁹.

Octavian Cojocaru offered the most details related to this incident: *“Wednesday's text was the improved version, after one of the shareholders, Dan Andronic, did not endorse what we wrote. The management changed our text, so that only the good things about Gigi [Becali - our note] were left. They deleted many statements, pictures and photo explanations that attacked the Steaua sponsor! They managed to create some reverential pages, but we do have a backbone and will not stand for it”*¹⁰⁰. The main shareholder of the publication, political advisor Dan Andronic, denies the accusations and claims that the journalists were only requested to write an unbiased article: *“He was asked nothing else than to write an unbiased article regarding Becali's mandate at Steaua for the last 10 years; under no circumstance was he asked to coddle him”*¹⁰¹.

Another case in which a journalist suffered after expressing critical opinions against the Steaua football team occurred in March 2013. A press release of the Steaua club dated March 10 announced that the credentials of the sports newsrooms in the Media Pro trust (Pro Sport, Pro Tv and Sport.ro) had been revoked for the actions of the Steaua club, as a result of the “repeated attacks in the show **The Pro Sport Hour**, moderated by **Costin Ștucan** “. The aforementioned show is broadcast on the Sport.ro channel.

According to the Gazeta Sporturilor daily, the revocation of the credentials was annulled for the Pro Tv and Sport.ro television stations after Costin Ștucan's position as moderator of the The Pro Sport Hour was taken over by a colleague¹⁰².

95 Ibidem.

96 “The management of the Curentul newspaper, together with a Google (Blogger) subsidiary, want to eliminate my second blog, thus infringing upon my constitutional rights”, Dan Badea, DanBadea.net, March 2, 2012.

97 Case described below.

98 “Badea to RTV: <<Die a painful death!>>. The stake of the war between Antena 3 and România TV”, Adrian Halpert, ReporterVirtual.ro, February 8, 2013.

99 “Resignation at EVZ because of Gigi Becali. Daniel Coțescu leaves the newspaper after 15 years. What the editor-in-chief and the owner of the newspaper are saying”, Iulia Bunea, PaginaDeMedia.ro, January 23, 2013.

100 “Gigi causes victims at EVZ. Two sports journalists resigned, claiming that they were told what to write in an article about Becali”, Andrei Crăițoiu, GSP.ro, January 24, 2013.

101 “Resignation at EVZ because of Gigi Becali. Daniel Coțescu leaves the newspaper after 15 years. What the editor-in-chief and the owner of the newspaper are saying”, Iulia Bunea, PaginaDeMedia.ro, January 23, 2013.

102 “Moderator executed at Steaua's orders! » After Banciu, Mironică and two journalists from EVZ, <<the red-blue boys>> cause one more victim in the press”, GSP.ro, March 12, 2013.

Contacted by the FreeEx team, Felix Drăghici, head of the sports department of the Media Pro trust, refused to comment on this case.

The Sports Press Association protested against this abusive decision of the Steaua club, claiming that "(...) the freedom of the press is above any group interests or material interests and any breach of such freedom must be sanctioned forthwith. Despite the fact that a journalist might make some mistakes (and it is very likely that Ștucan may have committed a few), it is infinitely more important that his/her voice be heard, even if sometimes it is dissonant. The danger of silencing someone is much more serious and those who attempt practicing politics of this kind shall always be met by our refusal"¹⁰³.

"Mitică" dictates in televisions

In mid-March, Dumitru Dragomir (nicknamed "Mitică"), president of the Professional Football League (PFL), sent an e-mail to the RCS-RDS cable company, reminding the corporation that the rights contract includes a clause under which the television does not have the right to encroach upon the image of the football leaders¹⁰⁴. RCS-RDS resent Dragomir's e-mail to its own employees, without any other comment. This contractual clause also exists in the Professional Football League's agreement with Antena 1¹⁰⁵.

Furthermore, the president of the PFL also obtained from the televisions that own the rights to broadcast the Premier League (DigiSport, Dolce Sport și Antena 1- GSP TV) the promise that the banners displayed by the fans in the tribunes should neither be filmed, nor televised¹⁰⁶. Dumitru Dragomir's action came as a result of the increasingly frequent protests against him and the corruption in Romanian football¹⁰⁷.

The Premier League sold the TV rights to the three televisions until 2014, for an amount that exceeds EUR 100 million¹⁰⁸.

România liberă changes a journalist's article in its essential parts

Cristian Dogaru, a România liberă journalist, requested a right of reply from the newspaper for which he is working, after an article written by him was amended against his will by the newspaper's management. The journalist's title - "Petrom has an unprecedented profit. Will it pay unprecedented dividends?" - was replaced by the newsroom's management with: "Petrom, unprecedented profit, fitting fees and taxes". The contents of the article were also changed and turned into a PR article for the company, after, as a result of several discussions with the editorial management, Dogaru had already made a number of changes to the text, taking into consideration the recommendations he had received. The journalist claims that this was not the first time when he faced such problems when writing about Petrom. Contacted by the FreeEx team, Dan Turturică, România liberă editor-in-chief, denied the censorship accusations, claiming that *"The discussion regarding the text of the article was a normal dialogue between an editor and a journalist"*, and *"the manner in which the title was changed hinges on the impact of the business upon society"*. Another argument invoked by Turturică was the fact that in the past, România liberă published features signed by Dogaru, in which he expressed critical opinions with respect to Petrom.

Two dailies censor Roșia Montană from Victor Ponta's speech

Despite announcing that it would reproduce the entire speech made by Victor Ponta before the Parliament, the România liberă newspaper omitted the Roșia Montană theme from the Prime Minister's speech. The Prime Minister's message, according to which "The Roșia Montană project has major problems: environment protection, the use of the resources for national purposes, the political corruption and the politicians' sponsorship, regardless of the political party of which they are members", was not reproduced by the daily publication¹⁰⁹. Evenimentul zilei not only omitted from its account the Roșia Montană theme, but it also omitted the situation of the genetically modified organisms.

1.5. The National Council of the Audiovisual - victim of last year's political battle.

The members' division into camps reflecting the political spectrum - more visible than ever

In 2012, the NCA had to deal with the attacks coming from the radio broadcasters who were not pleased with the sanctions imposed by the institution or the NCA's sanctioning duties, as well as from politicians who tried to instrumentalize the institution's activity for political purposes or to favor the televisions that were close to their own political faction (and viceversa, to disfavour the televisions that were close to their political adversaries).

The excessive politicization of the speech of certain televisions that are close to the political factions and the loyalty showed by the majority of the NCA members to the parties that proposed them as Council members gave rise to

103 "Steaua commits an abuse!", ApsMedia.ro, March 10, 2013.

104 "Why do the e-mails toll, Mitică?", Cătălin Tolontan, Tolo.ro, March 21, 2012.

105 Ibidem.

106 "The anti-Dragomir messages are prohibited on TV", Dan Zavaleanu, Cotidianul.ro, March 20, 2012.

107 "Mitică at the bakery. The supporters are protesting: -Sandu and Dragomir have nothing democratic about them, they are ridiculous!-", Gsp.ro, March 5, 2012.

108 "Live defiance for millions of Euros! Incredible revelations about the manner in which Steaua is treating a television holding TV rights", Bogdan Vladu, Gsp.ro, August 21, 2012.

109 "România Liberă censors Victor Ponta's speech. Evenimentul Zilei is not a whole lot more generous, but it is more modest", Mircea Toma, Blog.ActiveWatch.ro, February 12, 2012.

heated internal controversies, often resulting in the blocking of certain decisions' enactment or the formulation of separate opinions and red flags by some of the members. The intensity of last year's political battle and the active involvement of the televisions in said political battle provided an abundant caseload, as many of these cases generated major disputes between the Council's members.

The OSCE report regarding the parliamentary elections registers this politicization. *"Despite the fact that the NCA's political fragmentation was politically visible throughout the meetings, the institution made efforts to act in a professional manner and to carry out significant discussions that were first and foremost based on the legislation"*¹¹⁰, according to OSCE.

Both political factions accused one another of the same type of practices. There are several examples to that effect, from the appointment of new members in the Council, to blocking certain meetings as a result of the absence of a quorum.

At the beginning of 2012, the Parliament voted on the appointment of new members in the NCA. At first, it voted for Lorand Turos (proposed by UDMR for the vacant seat left by Attila Szasz) and Valentin Jucan, proposed by PD-L. The vote given to the latter caused PSD's discontentment, because up to 2010, the vacant seat had belonged to Grigore Zanc from PSD. Zanc had been proposed again by PSD for a seat in the Council in 2012, but the Parliament, dominated by a PD-L majority, postponed the voting of the proposal and subsequently voted for Jucan. The social-democrats complained about the failure to comply with the "parliamentary practices", referring to an "algorithm" that is "intended to maintain a balance between the governance and the opposition, being justified by the popular vote"¹¹¹.

In autumn, after the shift of power, when the Parliament voted on the appointment of six new members of the NCA as a result of the mandates' expiry, it was PD-L's turn to complain about the parliamentary majority's failure to comply with the agreement. The candidacies of Ioan Onisei (proposed by PD-L) and Avram Crăciun (proposed by UNPR) were not validated. The audiovisual law does not provide for the existence of an algorithm for the appointment of NCA members depending upon the political configuration.

*"Despite the agreement concluded in the joint meeting of the two Chambers' permanent offices, according to which each parliamentary group, the Government and the Presidency, were supposed to have one nomination for the NCA's membership, today we received a list in which the parliamentary group of PSD included two nominations, instead of one."*¹¹², said Radu F. Alexandru, PD-L senator, member of the Senate's Culture, Arts and Media Committee.

At the beginning of April, the same senator Radu F. Alexandru was the protagonist of a legal controversy. After being voted by the Parliament as a member of the NCA instead of the recently resigned Dan Grigore, the senator refused to give up his Parliamentary seat, thus putting himself in a position of legal incompatibility. Radu F. Alexandru declared that he postponed the moment of resigning from the Parliament, in order not to affect the force ratio in the Senate. In the event of his resignation, PD-L, still in a governing position, would have been equalled in the Senate by the opposition parties.

*"I do not wish, under any circumstance, to cause any prejudice and to destabilize the majority of the governmental coalition in the Senate; I hereby announce that, in full accordance with the law, I shall continue my activity in the Senate for the period clearly instated and stipulated under the law. I shall remain by your side."*¹¹³, said Radu F. Alexandru, PD-L senator, member of the Senate's Culture, Arts and Media Committee.

Ultimately, at the end of April, Senator Radu F. Alexandru gave up his seat in the NCA, in favor of the senator position.

Both NCA factions complained about the existence of political pressures upon the institution. Dan Grigore resigned from the NCA on March 8, invoking a statement of the PNL president, Crin Antonescu, who told the NCA member that he "had no honor". Dan Grigore was proposed by PNL for the NCA. In motivating his resignation, Dan Grigore refers to *"a climate of permanent pressure, lack of respect for the rules, duplicity and systematic counterfeiting of the most elementary principles, of monumental bad faith and serious pollution of the public space"*¹¹⁴ in which the NCA operates. After his resignation, four NCA members appointed by the parliamentary institution sent an open letter to the Parliament¹¹⁵, complaining about the existence of political pressures upon the institution. Among such pressures, they included the PSD press release which accused the parliamentary majority led by PD-L of keeping the NCA in its suborder, by means of the appointment of Valentin Jucan in the position that had previously been held by Grigore Zanc, *"which offers the certainty of certain abuses against the opposition and the televisions that do not serve the interests of Traian Băsescu and PD-L"*¹¹⁶ - according to the document.

The most powerful attacks against the institution were recorded after the parliamentary elections in December 2012. PNL Senator Sorin Roșca Stănescu declared, at the beginning of 2013, that he wished to amend the NCA's responsibilities, an institution which he considered "the terrible evil that had grown like a cancer"¹¹⁷.

"I wish to reduce this institution, which regulates the activity of the audiovisual (editor's note: the NCA) strictly to one that guards the technical broadcasting standards of the radio and television stations, which has

¹¹⁰ "The OSCE report on the 2012 elections: the press at the disposal of the political parties" Digi 24, a positive example", Iulia Bunea, PaginaDeMedia.ro, January 18, 2013.

¹¹¹ "PSD accuses PDL of keeping the NCA in its suborder", HotNews.ro, February 29, 2012.

¹¹² "Radu F. Alexandru, on the NCA appointments: Ponta called last night, PDL should not take anything", Revista22.ro.

¹¹³ "Radu F. Alexandru want to be both in the Senate and in the NCA", Lucian Gheorghiu, Cotidianul.ro, April 2, 2012.

¹¹⁴ "Dan Grigore resigned from the NCA: <<I do not like being a punching bag>>", Horia Tabacu, EvZ.ro, March 8, 2012.

¹¹⁵ "Appeal to the Parliament" <<We hereby inform you that political pressures are being exerted>>. The NCA needs the parliamentaries' support", Petrișor Obae, PaginaDeMedia.ro, March 8, 2012.

¹¹⁶ "PSD accuses PDL of keeping the NCA in its suborder", HotNews.ro, February 29, 2012.

¹¹⁷ "PNL Senator Sorin Rosca Stanescu wishes a new audiovisual law: Minimum responsibilities for the NCA and the sanctions should be transferred to the Public Prosecutor's Office. PSD Senator Gabriela Firea supports the amendment of the law", HotNews.ro, January 15, 2013.

absolutely no power to discuss and to ever challenge the content of the radio and television shows, referring such breaches to the Public Prosecutor's Office and other institutions, such as the Consumer's Protection, in order to fine them", declared Sorin Roșca Stănescu.

The political conflict also occurred within the institution, as on several occasions, the members of the NCA accused one another of favoring one television or another, depending upon their editorial orientation.

Several decisions were blocked because of the absence of a quorum, as some members of the Council left the room, leaving the Council without a legal quorum, when the subject in discussion was the enactment of certain sanctions that could be detrimental to the radio broadcasters that were close to the political forces that proposed them in the NCA.

NCA members, Christian Mititelu and Narcisa Iorga had several disputes related to the sanctioning of certain television channels, accusing one another of favoring a certain radio broadcaster.

Also, members of the Council repeatedly expressed different opinions with respect to the decisions enacted by the institution, as a manner of drawing public attention. Thus, in November, five members of the NCA complained with respect to the *"failure to sanction serious deviations from the audiovisual law, registered throughout several campaigns transmitted by Antena 3"*¹¹⁸, referring to the Antena 3 shows in which members of CSM, the Constitutional Court and the Romanian Cultural Institute were attacked.

The same five members left NCA's conference room on December 10, complaining about the discretionary manner in which the NCA decided to analyze the offences committed by the television on the day of the vote for the Parliamentary elections. NCA's management included on its agenda only an analysis of the OTV case and the content of two complaints registered with the NCA. The five members complain about the fact that the agenda was, in fact, imposed by the statement made by candidate Victor Ponta on the election day (*"I ask the NCA, not as a Prime Minister, but as a deputy, to apply the law for everyone. The overt breaching of all the rules by a single television, while all the others complied with them or are sanctioned, reveals a discretionary legal regime, in which some are more equal than others and the law applies only to some, and not to the others"*¹¹⁹). The owner and the celebrity moderator of the OTV station was the competitor of Prime Minister Victor Ponta in a Gorj county college, on behalf of the People's Party-Dan Diaconescu. In an open letter sent to deputy Victor Ponta, the five members invoke a number of statements of certain political leaders, as pressures exerted upon the NCA (*"Under these circumstances, we believe that political pressures are exerted with respect to the activity of the National Council of the Audiovisual, which causes prejudices to the NCA's statute as an autonomous and impartial public authority"*¹²⁰).

In February 2013, NCA member, Valentin Jucan accused the new majority of the NCA of *"betraying the public's trust"* by not sanctioning or being too lenient towards what he considered *"the filth in the audiovisual"*¹²¹.

One of the members of the Council, Narcisa Iorga, notified the Public Prosecutor's Office with respect to messages containing insults, blackmails and death threats received by her, telephonically and by e-mail, after the anchor of the Antena 3 show *"The talk of the press"*, Mircea Badea, disclosed her e-mail address during his show. The e-mail address is public and is available on the NCA's website.

A form of pressure was also exerted in reverse order, by the NCA upon the radio broadcasters, when the NCA discussed Antena 1's request to extend the license by 9 years, at the end of March 2012. At the time, the Council decided to postpone the extension, demanding the shareholders' presence in order to obtain guarantees with respect to the compliance with the schedule. *"We are postponing it, so that they can come up with a clear, precise schedule, in the Romanian language. I propose that the shareholding representatives should be here. At the executive level, I believe that the guarantees of the type that you have asked for cannot be complied with. I demand that the main shareholder be present"*, the NCA Vice-President, Ioan Onisei, told Andreea Berecleanu, anchor of the 7:00 o'clock Observator show. *"If you believe that it is not necessary to bother the Voiculescu family, I'll withdraw my proposal"*, Narcisa Iorga also stated¹²².

Another situation that caused controversy was the NCA's decision to notify the Police with respect to 42 websites that broadcast movies and series without complying with the audiovisual law and without holding the rights over the broadcast content. The endeavor came as a result of an address sent by SC Pro TV SA, a company that manages the strongest *on demand* video platform in Romania, voyo.ro. Article 41 of the NCA Decision no. 320 of 2012 provides that, until September 3, 2012, all providers of *on demand* audiovisual media services in Romania were obligated to fill out and send to the NCA a notification application. Several voices accused the institution that it breached its own responsibilities and that it acted in the interest of SC Pro TV SA, responding to the latter's request without any thorough analysis of the legal context.

Mihai Bătrâneanu, president of the Romanian National Internet Providers' Association (ANISP), declared that the subject pertains to copyrights and the NCA breached its responsibilities, having no competence in the internet field. *"The individuals who represent the interests of those whose copyrights were infringed upon, can go to court. They can go to the tribunal and sue the owner of the website that offered the content considered illegally distributed. They win the lawsuit, they obtain compensation, they obtain the deletion of the content from the respective website, but under*

118 "Five members of the NCA attribute the blockage in the audiovisual forum to several <<campaigns>> Antena 3 against CSR judges, CSM magistrates, ICR and the president: <<The NCA risks becoming a guarantor of Antena 3's interests>>", C. Ionescu, HotNews.ro, November 8, 2012.

119 "Five members of the NCA attribute the blockage in the audiovisual forum to several <<campaigns>> Antena 3 against CSR judges, CSM magistrates, ICR and the president: <<The NCA risks becoming a guarantor of Antena 3's interests>>", C. Ionescu, HotNews.ro, November 8, 2012.

120 Ibidem.

121 "An NCA member with respect to the Council: <<The filth in the audiovisual and the gossip are tolerated by the majority >>", Iulia Bunea, PaginaDeMedia.ro, February 19, 2013.

122 "The NCA did not extend the broadcasting license of Antena 1", Bianca Damian, ReporterVirtual.ro, March 29, 2012.

no circumstance will they obtain the shutting down of said website and this is the legal procedure that should be applied. It is not the duty of an institution paid from public money, with no abilities in the internet regulation field, to have such an initiative and to notify the police with respect to the shutting down of certain websites. It is obvious that the NCA is going beyond its duties"¹²³, Bătrâneau stated.

The revocation of the OTV station's broadcasting license

The NCA's decisions with respect to OTV have been some of the most controversial. Throughout the spring and summer of 2012, the NCA repeatedly decided to halve the station's broadcasting license, for political publicity made by OTV to the People's Party - Dan Diaconescu (PPDD). The license was to expire in April 2013. Dan Diaconescu, the owner and the celebrity of the television, claims that he is not a member of the party, which only bears his name¹²⁴. During the same period, the station became insolvent. OTV appealed in court the NCA's decisions to halve its license, obtaining a suspension of their implementation until the court made its final judgment. In January 2013, the NCA revoked the license of the OTV station, on the grounds that it failed to produce evidence of paying certain fines applied by the NCA, within the legal 6-month interval. The decision was appealed by OTV, but the Bucharest Court of Appeals dismissed the legal action¹²⁵.

In the summer of 2012, the company that holds the OTV license, Ocram Televiziune, obtained in court the capacity of "captive consumer in relation to the NCA" until the expiry of the license granted for OTV. The new president of the NCA, Laura Georgescu, believed that said court decision was an abuse¹²⁶. According to the Law on the insolvency procedure, article 3 point 32, "a captive consumer is a consumer which, from technical, economic or regulation considerations, cannot choose its provider". The NCA does not have commercial relations with the radio broadcasters to which it grants operating licenses, so the court's decision represents an abusive interpretation of the law. The NCA filed a second appeal and the case file is currently pending with the High Court of Cassation and Justice.

CONCLUSIONS:

- The intensification of the political police actions carried out by the intelligence services with respect to certain journalists, newsrooms and civic activists.
- The confirmation of the existence of political police specific practices by means of the infiltration of newsrooms by undercover agents of intelligence services represents a serious threat against the freedom of the press.
- Politicians and high ranking dignitaries instigated against critical voices and pursued the instrumentalization of certain public institutions against them.
- The transformation of the press into a political propaganda instrument is more visible than ever.
- The media is still used by the owners as a weapon in view of obtaining political and economic advantages.
- The dangerously close relationships between some press managers or owners and the political and economic environments sometimes jeopardize editorial independence.
- The border between journalism and political activism has been easily crossed by many journalists, some of whom even became parliamentaries.
- The political tensions sometimes exploded in the form of disputes between media entities controlled by various political competitors.
- The use of state institutions to discredit journalists.
- The owners and the managers are willing to sacrifice journalists or editorial products in order to avoid destroying their relationship with ratings-producing guests.
- The independence of the regulation and control institutions (the NCA) is jeopardized by the pressures exerted by the political environment.
- The independent journalists became the target of aggressive verbal attacks from politicians or other journalists.
- The last year's two election campaigns did not manage to bring into public debate any subjects of a general public interest, which were sacrificed in favor of sterile political debates.

RECOMMENDATIONS FOR JOURNALISTS AND EDITORS:

- Firmly distance yourselves from the attempts of editorial pressure (and interference) and publicly notify any such situations.
- Invoke the conscience clause in your collective employment contract.
- Inform the media organizations if you are victims of pressures or censorship.
- Avoid the editorial products that are financed by politicians, authorities or companies, which are perceived as propaganda materials.
- Join the journalists in difficult situations, even if they work for a competing station. Our guild shall become stronger if you fight together for principles and rights, instead of wasting time in sterile political disputes.
- Keep your distance from the political environment. Too close a connection with a politician risks compromising your credibility.

¹²³ "The online movie war. The head of the internet providers' association insists: the NCA, an institution paid from public money, with no abilities in the internet regulation field, should not be notifying the Police with respect to the shutting down of certain website", Adrian Vasilache, HotNews.ro, November 6, 2012.

¹²⁴ "OTV received the most drastic punishment from the NCA: it is only allowed to broadcast until September 28, 2012, because of the political publicity", Costin Ionescu, HotNews.ro, March 27, 2012.

¹²⁵ "The application for the annulment of the NCA's decision to revoke OTV's license, dismissed by the Bucharest Court of Appeals", Cătălin Lupășteanu, Mediafax.ro, April 3, 2013.

¹²⁶ "The war between OTV and the NCA, the legal **battlefront**: How a <<unique judgment in the NCA's history>> ended up destroying the relationships between Dan Diaconescu's television station and the audiovisual forum", Costin Ionescu, HotNews.ro, January 23, 2013.

- Do not let politicians create the agenda of the debates in the election campaigns.
- Do not sacrifice the subjects of a major public interest in favor of petty political disputes, especially during the election campaigns.
- The existence of self-regulation instruments (writing codes, ethical codes, documents that regulate the relationship between the journalist, the editor and the owner) can protect you from censorship accusations.

RECOMENDATIONS FOR POLITICIANS, AUTHORITIES AND THE BUSINESS ENVIRONMENT:

- Cease the political police practices. They can turn against you at any time, once you are no longer governing.
- Stop using the state's institutions to intimidate the critical voices.
- Support the press that disseminates relevant and verifiable editorial content. In its turn, it supports a proper framework for innovation, a healthy business environment and a competent political class.
- The freedom of speech and media freedom are vital for a democratic society. Support and protect freedom of speech and the diversity of expression in all of its forms.
- Respect the editorial independence of the press. A free and accountable press is the most appropriate environment to send your messages.
- The election campaigns have the role of bringing solutions and candidates into public debate. Do not turn them into opportunities to prolong political scandals. You have the entire year for political disputes; please respect the electorate's right to be informed in the election campaigns.
- Let the journalists choose the subjects and the guests of election debates.

II. PUBLIC TELEVISION

Recently appointed Prime Minister Victor Ponta made a series of declarations of intent with respect to the public media services, promising that he shall not continue the tradition of his predecessors and shall not replace "their political officers with our political officers", even though he considered that the management of the two institutions is politicized. "I believe that at present, the Romanian Television - less the Radio, mainly the Romanian Television - is profoundly politicized and practically distorts information and disinform the Romanian population. I believe that it has a disastrous management, because I know that its debts have greatly exceeded the 40 million Euros of which one spoke at the beginning, but in my opinion, it is not a good solution to change the profoundly political management of President Traian Băsescu and PDL with the political management of USL"¹²⁷, Ponta declared.

The conflict within the Board of Directors (BoD) worsened after the political configuration in the Parliament changed and USL took over the governance. On May 3, the BoD decided to annul the position of Editorial Production and Programs Manager, held by Dan Radu, considered a close friend of PDG Alexandru Lăzescu. The position was eliminated from the organizational chart. Claudiu Brânzan (member of the BoD) cited Dan Radu's lack of managerial performances as motivation for his decision. Dan Radu and ActiveWatch¹²⁸ complained about the existence of a political blackmail behind this decision, by means of an attempt to impose Claudiu Lucaci at the management of the Directorate for Informative and Sports Shows, a proposal which was dismissed by A. Lăzescu. Dan Radu appealed in court the decision to annul the position occupied by him.

The accusations were dismissed by Claudiu Lucaci and TVR's Ethics Committee issued the following conclusions:

- "We believe that TVR's President - General Manager - whose position is assimilated with the category of television journalists - was obligated to present his own version of the events, by means of a prompt, explicit and accountable public statement, in the benefit of truth, of the institution and of its employees, as provided for under the TVR journalist's Statute";
- "The content of journalist Dan Radu's claims contradicts the exigences set out in the TVR journalist's Statute".

The decision of the Ethics Committee also refers to the 2010 competition for the management of TVR's Directorate for Informative and Sports Shows, in which Claudiu Lucaci also participated. The president of ActiveWatch, Mircea Toma, a member of the jury, lowered the score of Lucaci's project, invoking his professional route as former Government spokesman during Adrian Năstase's mandate, former General Consul of Romania in Los Angeles and former advisor of the Minister of Youth and Sports, Monica Ridzi, prosecuted for corruption acts committed during her mandate at the ministry. The Ethics Committee considered that "the president of ActiveWatch, Mircea Toma, breached C. Lucaci's professional rights, in his capacity as member of the assessment jury [...]".

Only a few days after this event, the National Fiscal Management Agency froze TVR's accounts because of the institution's debt of 308 million Lei to the state budget. Prime Minister Victor Ponta declared that he would only release TVR's accounts when said institution's management came up with a reorganization plan.

On May 25, the BoD decided to also suspend the payments to the TVR collaborators who worked for other press institutions¹²⁹. After the meeting, 8 of the 13 BoD members sent an open letter to the PDG, requesting his resignation

¹²⁷ "Victor Ponta: The management of TVR and RRA is politicized and disinform people. But we shall not replace his political officers with ours", Ionuț Balas, HotNews.ro, May 9, 2012.

¹²⁸ The new governance takes TVR by storm, ActiveWatch press release, May 5, 2012.

¹²⁹ "TVR stopped paying its collaborators who also work for EVZ, România Liberă or the 22 magazine", C.I., HotNews.ro, May 29, 2012.

and complaining about the existence of "illegal actions" and the perpetration of corruption acts. Lăzescu requested the 8 members to bring proof in support of their claims and maintained his right to go to court.

Concurrently with the BoD tribulations and the pressures coming from the political sector, TVR announced that it completed a program by which it defined its mission, vision and values¹³⁰, in partnership with the Center for Independent Journalism. The three documents were meant to represent the basis for the TVR Charter, a document which should have set out in detail the institution's manner of operation and its fundamental values. The project also included a sociological research that revealed that 65% of Romanians trust public television and TVR news lead the top on objectivity (66%), objectivity (53%) and respect the citizen's agenda (71%)¹³¹.

On June 12, the assembled plenum of the Parliament dismissed TVR's activity report for 2011, which resulted in the BoD's removal. It should be noted that TVR's activity reports for years 2009 and 2010 (in 2009, the BoD had a different membership) were not discussed and voted upon even on this occasion, despite being long overdue. Senator Georgică Severin warned his colleagues that the dismissal of the 2010 report meant that in 2011, TVR functioned illegally. On the same day, journalist Radu Călin Cristea was voted interim general manager of TVR. The PD-L parliamentarians participated neither in the votes of the Culture, Arts and Media Committees, nor in those of the plenum.

Several days later, the Ponta government decided to release TVR's accounts for a period of 6 months, declaring: *"I am absolutely certain that the public television needs a depoliticization and a restructuring, in order not to suffer losses and to rise to the standards with which a public television must comply when asking for public money"*¹³².

On June 26, the Parliament appointed a new Board of Directors. Despite the assurances expressed by Prime Minister Ponta (*"I do not wish to replace a management appointed by PDL and Traian Băsescu with a management appointed by USL or PSD [...]. I do not want anyone from USL at the television's lead"*¹³³) the new BoD's membership exclusively consisted in representatives of the new majority, formed by USL, UDMR and the Group of national minorities in the Parliament. The Democratic Liberal Party was not allowed to submit proposals in the specialized committees for the BoD seats. PD-L appealed this decision of the majority at the Constitutional Court. ActiveWatch protested against this vote, considering that it created the premises for a "total politicization" of TVR. *"The procrastination of the process of amendment of Law 41/1994 resulted in the disastrous position in which TVR is at present. It is a repetition of the scenario in which the new parliamentary majority adjudicates <<the loot>>, replacing a former administration, close to the former governance, with a new administration, overwhelmingly formed of members of the governing parties, from which the opposition is excluded"*¹³⁴ - ActiveWatch stated in a press release.

The new appointed President - General Manager was Claudiu Săftoiu, former manager of the Foreign Intelligence Service between October 2006 and March 2007, who, when elected, was also the Vice-President of PNL's Gorj subsidiary. After being elected President and General Manager, Săftoiu withdrew from PNL.

In September, the Constitutional Court judges decided that the manner of appointment of the new TVR BoD by the Parliament was unconstitutional, which decision obligated the Parliament to repeat the process of appointment of the new BoD. On October 9, the Parliament voted the membership of a new BoD, which also included two representatives of PD-L.

On June 27, one day after the voting of the new BoD, the government issued Emergency Ordinance no. 33, which forced the public television to submit an economic redress program with the Parliament within 45 days.

On July 3, the new President - General Manager of TVR, Claudiu Săftoiu, suspended himself from the National Liberal Party and the position of Vice-President of PNL Gorj.

On July 26, the BoD decided to set up a task force, to carry out "the reviews necessary for developing a program of economic recovery"¹³⁵. The membership of the task force was largely formed of people who contributed to TVR's disastrous situation, as they were members of TVR's management structures during the post-December period.

During the same meeting, the Board of Directors decided that TVR's employees holding managing positions cannot act, at the same time, as compere, producer and show anchor¹³⁶. The decision was a reenactment of the provisions of the Organizational and Operational Rules, cancelling the derogations granted over the last few years. The measure seems to apply on a discretionary basis, because at least two employees holding managing positions, who work within the Informative and Sports Show Directorate (DEIS), also act as presenters for certain shows. Thus, on July 14, Monica Ghiurco was appointed editorial coordinator of the TVR Interactiv department, which administered the www.tvrinfo.ro website and was entrusted duties of editorial coordination of the news and debate productions on the TVR1, TVR2 and TVRInfo channels¹³⁷, but continued to be a show moderator. In response to a notice from ActiveWatch, the TVR management stated: *"Monica Ghiurco does not hold a managing position, or one that is assimilated to such a position. Nevertheless, we must specify that Monica Ghiurco did participate in non-electoral shows, replacing certain colleagues who were either on vacation, or assigned to the shows scheduled with the election staff, prior to the Referendum campaign. Monica Ghiurco did not participate in any electoral show, but did conduct three interviews, during special edition shows and acted as co-moderator, together with journalist Mihai Constantin, in the debate with*

130 "The mission, the vision and the values of TVR", TVR.ro, June 10, 2012.

131 "Romanian Television wants to complete the TVR Charter until the end of 2012", Mediafax.ro, May 6, 2012.

132 "Ponta: I released TVR's accounts, but I'm certain it needs depoliticization", Szasz Jutka, Cristiana Sabau, Mediafax.ro, June 21, 2012.

133 "Ponta: The government does not release TVR's accounts, the television must submit a solution", Andi Manciuc, Mediafax, June 3, 2012.

134 "The new governance continues the political class' tradition to have public television in its suborder", ActiveWatch.ro, June 26, 2012.

135 "TVR's management sets up a task force for the institution's recovery", V.O., HotNews.ro, July 26, 2012.

136 "TVR measures: Claudiu Săftoiu intends to make savings of over 1 million Euros in TVR's budget", Petrișor Obae, PaginaDeMedia.ro, July 26, 2012.

137 "Monica Ghiurco, coordinator of the TVR Interactiv, TVR 1, TVR 2 and TVR Info news", Petrișor Obae, PaginaDeMedia.ro, July 15, 2012.

apolitical guests, during the night when the Referendum was finalized"¹³⁸. Also, at the time when this public report was being written, Claudiu Lucaci, head of DEIS, was one of the moderators of the weekly debate show *Final Edition*¹³⁹.

On August 3, the Board of Directors changed the membership of the Managing Board, after the members of the old Managing Board refused to resign. The new Managing Board was announced as temporary, for a period of 60 days, such measure being necessary for the implementing of TVR's economic recovery project.

The recovery program developed by the Task Force and the expert Committee was approved in the BoD meeting of August 10. The program intends to reestablish the functioning costs, so that TVR can pay its debt of over 65 million Euros to the state within 7.5 years, as well as its other debts to its commercial partners. The report found that TVR's existing structure generates "*confusion and an ill-judged allocation of people per shows, causing inefficiency, both from a creative point of view and from the point of view of the editorial needs*", but also that the organization structure, formed of 7 directorates and 25 departments, generated very high salary-related costs. To that effect, a new structure formed of 5 directorates and 10 departments was approved¹⁴⁰.

The main austerity measures were to close down the TVR Info and TVR Cultural channels, as well as to implement a personnel restructuring program. TVR Info was renamed TVR News and resumed its broadcast in November, in partnership with the Euronews station, most of the editorial content being provided by Euronews.

On the same day, the editorial coordinator of the tvrinfo.ro website announced that all of the website's collaborators would be made redundant, because of the lack of financial resources.

On September 1, the Romanian Government approved a memorandum regarding the scheduling of TVR's fiscal debts over 7 years.

On September 28, TVR's management announced a new organizational chart, with 2,395 positions, meaning that 872 employees were to be made redundant.

The restructuring measures caused strong controversies within the institution, as a few members of the BoD harshly criticized the manner in which they were enacted. Valentin Nicolau, former President-General Manager (PDG) of TVR during 2002-2005, was the most vocal critic and announced possible illegalities¹⁴¹, as well as the fact that one of the developers of the restructuring plan, PDG advisor Cristian Zgabercea, former TVR employee, caused TVR a loss of USD 330,000, according to a court decision¹⁴².

One of the measures that caused the the most discontentment among TVR's employees was the decision to block the editorial activity, which was made immediately after the new BoD was appointed. Several journalists flagged the absurdity of a situation in which they were paid to do nothing and to refrain from carrying out their duties, as provided for in their job descriptions, as the management prohibited them from performing any editorial activity. The only department that continued to perform an editorial activity was DEIS, as well as the "Village life" show. PDG Claudiu Săftoiu stated that he would only resume editorial activity after the completion of the personnel restructuring process¹⁴³.

The personnel selection process was initiated prior to the appointment of the new BoD on October 9, but was amended several times. The committees appointed to assess the employees targeted by this process were another cause of controversy, as their members included politicians or media experts coming from competing television stations. The selection process was formed of three stages, which were carried out in November. The first stage consisted in the submission of an activity memorandum (50% of the final grade), followed by taking a grid test (20% of the final grade), while in the last stage, the candidates were to be interviewed by the 13 assessment Committees (30% of the final grade).

The results were posted on December 10 and over 700 appeals were submitted. Eventually, the total number of the restructured employees was of 698 people¹⁴⁴, leaving TVR with a personnel structure formed of 2,450 employees.

Some of the persons included on the redundancy lists declared that they shall go to court in order to appeal the redundancy decisions. Cezar Ion, former head of TVR's Editorial Directorate and Sanda Vișan, TV producer, claim that they did not participate in the selection process, as they did not receive any official notifications from the institution¹⁴⁵.

Claudiu Săftoiu claims that as a result of the restructuring process, the institution's general expenses dropped by approximately 30%¹⁴⁶. On February 1, 2013, TVR's management publicly disclosed the new organizational chart.

"The unnatural autonomy" of the tvrinfo.ro journalists

In October 2012, journalist Vlad Stoicescu re-enacted the story regarding the publication of Prime Minister Victor Ponta's plagiarism by the www.tvrinfo.ro website. The article, published on the Dela0.ro website¹⁴⁷, presents the standpoints of the editors who were directly involved in the decision to publish the news on the plagiarism, as well as their discussions with Radu Călin Cristea, interim PDG and Claudiu Săftoiu, who, in the meantime, became the PDG.

138 "TVR's communication department, Response to the request of ActiveWatch", no. 19.253/, August 17, 2012.

139 "The week's subjects, debated in the Final Edition", TVR.ro, March 8, 2012.

140 "TVR Info and TVR Cultural shall cease to broadcast. The mission of TVR Cultural, taken over by TVR 2 and TVR 3", Mădălina Cerban, Mediafax.ro, August 10, 2012.

141 "The frenzy within TVR", NoriiMei.ro, October 7, 2012.

142 "The TVR <<skeleton>> in PSD Constanța's closet: Valentin Nicolau - << Zgabercea's plan - Nine hundred layoffs and causing TVR's bankruptcy >>", Lavinia Siclitaru, ZiuaConstanța.ro, October 17, 2012.

143 "Săftoiu: I shall not fill out TVR's schedules with new programs until the personnel selection is completed", Mădălina Cerban, Mediafax.ro, October 12, 2012.

144 "TVR LAYOFFS: 698 employees shall leave, as of February 1", Mădălina Cerban, Mediafax.ro, January 23, 2013.

145 "Sanda Vișan and Cezar Ion, among the SRTv employees made redundant, intend to sue TVR", Mădălina Cerban, Mediafax.ro, January 29, 2013.

146 "INTERVIEW- Claudiu Săftoiu: TVR shall pay 16.5 million Lei to the 635 employees made redundant", Mădălina Cerban, Mediafax.ro, January 25, 2013.

147 Vlad Stoicescu, former journalist of tvrinfo.ro, currently a freelancer, published the article "Poltergeist in the house of the public television. How the TVR bosses tried to find out the identity of the source that disclosed Victor Ponta's plagiarism", on the independent platform Dela0.ro", on October 11, 2012.

Thus, on June 21, three days after the publication of the news on the tvinfo.ro website, Mona Dîrțu, acting head of TVR Interactiv at the time, the department dealing with the editorial coordination of the Television's websites, was called into Radu Călin Cristea's office, in order to explain "why he had not been informed of the publication of information that strongly involved the institution". Mona Dîrțu answered that the PDG of TVR "does not have editorial responsibilities and the subordination of the Interactiv department is strictly of an administrative nature", states the quoted article. Cristea was worried that the publication of the article put TVR in a "delicate" situation and that "it was unnatural that the tvinfo.ro newsroom should have so much editorial autonomy", Mona Dîrțu remembers¹⁴⁸. However, the interim president of TVR did not have any reproaches of a journalistic nature and did not threaten any punitive measures. "Mr. Cristea seemed embarrassed, rather than furious, that he had to have a conversation on this subject", Mona Dîrțu also stated.

4 months after the publication of the news, PDG Claudiu Săftoiu continued to express doubts with respect to the editorial decision of tvinfo.ro's journalists. "I would have been glad to know one thing with respect to that exclusivity: the verification of that information's validity from three different sources. This never came from those who launched that piece of news. It seemed to have come unexpectedly, unexplained by anyone, for considerations other than the journalistic ones", Săftoiu claimed in an interview¹⁴⁹ published by HotNews.ro in October. TVR's PDG added that "the questions that I repeatedly asked those who had had the happy, miraculous chance to be the first to find out that piece of information were never conclusively answered".

Teodor Tiță, former editor-in-chief of tvinfo.ro, was also interrogated by Claudiu Săftoiu: "We only had one discussion on this subject, right after he was appointed president and general manager. He wanted to know the source of the documents obtained and published in the plagiarism case. I refused to tell him. <<You don't want to tell me, do you?>>, he asked me", Tiță remembers¹⁵⁰.

Nevertheless, TVR's management never demanded explanations on a procedural line. "None of the persons involved in documenting and publishing the article in discussion was demanded to appear before TVR's Ethics Committee, which is authorized to solve such deontological conflicts", Stoicescu wrote.

Mona Dîrțu believes that "Things are probably incredibly simple. The article in discussion caused the two TVR bosses a discomfort in their relationship with Prime Minister Victor Ponta. That's all".

TVR's Organizational and Operational Rules provide, in chapter IV, article 7, paragraph 10: "The hierarchical newsroom control may be requested and exercised by any person holding a managing position, who is directly responsible, up to, and including, the level of the President-General Manager, for the activity of the department that produced or shall produce the material".

However, the law on the organization of the Romanian Television Company indicates, in article 14, paragraphs 11 and 12, as follows: "The confidential nature of the editorial staff's information sources is guaranteed under the law" and "The disclosure of such sources, motivated by a breach of the public interest, may solely be performed on the basis of a directive issued by a court of law".

But things did not end here. On July 14, the new PDG Claudiu Săftoiu revoked the coordination duties of the editorial activity of the tvinfo.ro, tvrplus.ro, tvr.ro websites for Mona Dîrțu (director of the TVR Interactiv directorate) and transferred them to Monica Ghiurco¹⁵¹, editor-presenter in the Informative Show Department. The decision resulted in Mona Dîrțu's resignation three days later¹⁵².

On July 15, in the middle of the campaign for the referendum regarding the president's removal from office, TVR's management prohibits the newsroom of the tvinfo.ro website the right to create its own materials during the referendum campaign¹⁵³. Furthermore, the new coordinator of the website, M.Ghiurco, asked the people in the newsroom to eliminate the political news with "electoral valences" ("the homepage's cleaning of political news with electoral valences, in favor of ardent subjects of public interest, covered at length and exhaustively in the TVR Journals"¹⁵⁴).

M. Ghiurco and TVR's management offered a series of ridiculous reasons in support of their decisions, from invoking the legislation to a presumed "strong subjective nature"¹⁵⁵ of the materials produced by the newsroom www.tvinfo.ro and ending with financial arguments ("additional costs that are difficult to cover in our current financial situation"¹⁵⁶).

For starters, the two website coordinators who remained in office after Mona Dîrțu's resignation, Teodor Tiță and Alexandra Bădicioiu, were asked to obtain a document from the NCA, which should specify that there is no provision of the Council with respect to the online environment, despite the fact that the electoral law and the audiovisual regulation make no reference to online communication. The two journalists were also prohibited from interviewing the

148 "TVR's interim boss: With respect to the tvinfo.ro website, I have noticed a <<temptation to form enclaves >> and <<a strange editorial autonomy >>. The website exclusively published the documents on which the accusation of plagiarism against Prime Minister Ponta is based", C. Ionescu, HotNews.ro, June 22, 2012.

149 "Claudiu Săftoiu: <<Your question is very biased. If you believe that TVR's objective is to chase exclusive materials and its mission is not to inform and instruct, then we are talking about different things", HotNews.ro, October 4, 2012.

150 "The heads of the Tvinfo.ro newsroom complain about interferences in the website's editorial policy: Tvinfo.ro is no longer allowed to create its own materials during the referendum campaign" We were prohibited from doing any interview with relevant political figures", Costin Ionescu, HotNews.ro, July 18, 2012.

151 "Monica Ghiurco, coordinator of the news of TVR Interactiv, TVR 1, TVR 2 and TVR Info", Petrișor Obae, PaginaDeMedia.ro, July 15, 2012.

152 "The head of TVR Interactiv, Mona Dîrțu, resigns: I am no longer entitled to making editorial decisions for the websites of TVR / Mr. Claudiu Săftoiu never discussed the editorial content with me", Costin Ionescu, HotNews.ro, July 17, 2012.

153 Explanation about TVRinfo.ro, www.facebook.com, Alexandra Bădicioiu, July 18, 2012.

154 "TVR grows with the country", Marius Cosmeanu, Voxpublica.Realitatea.net, July 18, 2012.

155 Response sent by M. Ghiurco to ActiveWatch.

156 Ibidem.

political figures of relevance during the referendum campaign. *"Despite initially being laughed at by the NCA's members, they did provide us with a response, clearly stating that TVRinfo.ro is not subject to the institution's regulation. Despite the NCA's response, we were expressly prohibited from carrying out any interviews with the political figures of relevance during the referendum campaign. It should also be noted that, at the time when we manifested our availability to obtain the document from the NCA, we were asked to also obtain from the Parliament a document specifying that we could conduct interviews"*¹⁵⁷, the two journalists reported on Facebook.

ActiveWatch publicly condemned these practices in a press release on July 19: *"The new management of the public television causes prejudice to public interest, deleting editorial materials regarding the referendum campaign from the tvrinfo.ro website. The decision is all the more debatable and suspicious as the online space is not subject to the regulations imposed by the NCA to the audiovisual media. Therefore, the editorial body of tvrinfo.ro is free to produce and submit relevant journalistic materials in a controversial political moment and thus consolidate its position on the market of online publications. On these grounds, we believe that TVR's decision is to deny its website the possibility to capitalize, from a journalistic point of view, on the main events that Romania is going through, as an act of double sabotage: on the one hand, it is also an act of internal sabotage, which undermines the position of the new tvrinfo.ro website on the market and on the other hand, a segment of the TV fee paying public is deprived of the information for which it paid"*.

CONCLUSIONS:

- In the acknowledged tradition, the new political majority discharged TVR's management from office and appointed a new Board of Directors. Many members of the new BoD had been members of the previous BoDs.
- The Constitutional Court was the only one that managed to mitigate the new governors' keenness to appropriate all available positions in TRV's new Board of Directors.
- Pressures were exerted upon TVR from the leaders of the governance, the opposition and the presidency, accompanied by requests to eliminate the TV fee (see the report's chapter in Political pressures).
- The government put TVR's accounts under restraint for failing to pay its fiscal debts; the measure was suspended immediately after the Parliament appointed a new Board of Directors.
- In 2012, TVR went through an unprecedented restructuring process, which caused the discontentment of many employees.
- Two TVR channels were closed down - TVR Cultural and TVR Info; subsequently, TVR Info was renamed TVR News and reopened in partnership with Euronews.
- TVR's editorial production was suspended for over 7 months.
- Some of the authors of the restructuring process actually contributed to TVR's current situation.
- The new management harassed the editorial team of the www.tvrinfo.ro website, who published the news on Prime Minister Ponta's plagiarism.

RECOMMENDATIONS FOR POLITICIANS AND THE MEMBERS OF THE BOARD OF DIRECTORS:

- The amendment of the law on the operation of SRR/TRV is the premise of the institutional reform of SRR/TRV.
- The persons nominated by the Parliament in the boards of directors of the public television and radio should be selected on the basis of professional criteria, not on the basis of political negotiations.
- The Board of Directors must take into account its prerogatives and avoid arbitrary decisions that jeopardize the institution and the autonomy of the editorial body.

RECOMMENDATIONS FOR EMPLOYEES:

- Use the protection granted by the Whistleblower's Law in order to flag any abuses perpetrated in the two institutions¹⁵⁸.

¹⁵⁷ *"UPDATE The heads of the Tvrinfo.ro newsroom complain about interferences in the website's editorial policy: TVRinfo.ro is no longer allowed to produce its own materials during the referendum campaign" / Monica Ghiurco: The internal norms regarding the referendum are mandatory for all structures of TVR, including Tvrinfo.ro*", Costin Ionescu, HotNews.ro, July 18, 2012.

¹⁵⁸ The guide for whistleblower_s in the public media institutions, published by ActiveWatch, 2012.

III. AGGRESSIONS

The authorities breach the law on public assemblies

In 2012, the number of protests almost doubled, as compared to the previous year, according to the responses to the requests of information of a public interest, submitted by APADOR-CH and ActiveWatch to the town halls in the county seats¹⁵⁹. Enforcement officers intervened, more violently than ever, in order to break up the protests against authorities and frequently breached Law 60 on public assemblies.

The most serious and extensive breaches of the right to freedom of assembly took place during the protest manifestations in January 2012 (these cases were documented in the 2011 FreeEx report.) Article 6 of Law 60/1991 states that "The organization of public assemblies must be communicated to the town hall of the municipality, city or commune on the territory of which they are to be conducted"¹⁶⁰. Many of this year's actions of the gendarmerie were based upon the fact that the protesters allegedly did not have an authorization and protested "illegally"¹⁶¹, despite the fact that law 60 does not specify anything about that, but only about the notification of the protests.

Approximately 15 people, who assembled on March 6 in front of the Ministry of Economy in order to protest against the meeting of the Chevron representatives with the Romanian officials, were put in the Gendarmerie's patrol wagon and taken to the police station. The people protested against Chevron's intention to start exploiting shale gases in Romania, by means of a controversial method, possibly toxic for the environment. The protesters did not chant, but merely displayed banners with anti-Chevron messages¹⁶². The only problem that the gendarmes signalled was the absence of an "authorization for the assembly"¹⁶³. "Banner equals a protest picket", the gendarmes stated before shoving the protesters in their patrol wagon¹⁶⁴.

On March 15, several protesters against the Roşia Montană mining project organized a protest in front of the Ministry of Environment. The activists tried to block the access into the Ministry and to symbolically instate "quarantine in the institution affected by corruption". The gendarmes immediately intervened, forcefully shoving the protesters in the patrol wagons and tearing up the banner which read "Quarantine - this environment is contaminated by cyanide and corruption in an advanced stage", without any warning. One of the protesters suffered a serious injury at one of his hands. As a sign of solidarity with the activists pushed by the gendarmes into the patrol wagons, several young people gathered in front of the same ministry, a few hours later. A patrol wagon of the Gendarmerie came immediately and the enforcement officers warned them to leave the place. As a sign of non-violence, the young people sat down and that is when the gendarmes decided to use force. The protesters were dragged on the ground and one of them was punched¹⁶⁵.

Also in March, a few people who were peacefully protesting against the genetic modification of food were picked up by the enforcement officers in front of the ministry of Agriculture. The gendarmes took by storm two persons dressed up in corn cobs and struggled with pushing them into the patrol wagon for a few long minutes¹⁶⁶.

Six Iaşi locals who booed Victor Ponta in an official visit in Iaşi, in March, were each fined 700 Lei¹⁶⁷, after they accused Ponta of protecting Adrian Năstase and yelling "Thieves!" and "Traitors!". In front of the building from which the Prime Minister exited there were also 150 USL sympathizers who applauded when the Prime Minister exited the building¹⁶⁸.

On October 6, 25 persons were apprehended and transported by the Gendarmerie's armored car to Police Station 3, for assembling at Hala Matache to complain about Mayor Sorin Oprescu's lack of verticality¹⁶⁹. Despite having promised to maintain Hala Matache in its current location, he left the Hala, which is a historical monument, to fall prey to the scrap iron collectors and publicly declared that he intends to "move it"¹⁷⁰, which implies a shifting by demolition.

For over an hour, dozens of gendarmes prohibited the passers-by from going near Hala Matache and diverted the route in view of preventing/discouraging/intimidating the gathering of people around this historical monument¹⁷¹.

The persons who were apprehended were issued warning protocols, on the grounds that they participated in an illegal protest¹⁷².

159 "Public assemblies in Romania 2011-2012 - the town halls' role -", APADOR-CH and ActiveWatch, The town halls' role in authorizing public assemblies 2011-2012, Apador.org.

160 Legislation, Resursepentrudemocratie.org

161 "A drive in the Gendarmerie's armored car, from Hala Matache to Police Station 3", ActiveWatch.ro, October 6, 2012.

162 "Against the shale gas exploitation: Over 10 people were picked up by the gendarmes in front of the Ministry of Economy", Totb.ro, March 6, 2012.

163 Ibidem.

164 Ibidem.

165 "Violence acts. Protest of the Roşia Montană **activists**, forcefully repressed by the gendarmes", TOTB.ro, March 15, 2012.

166 "-Push the corn cobs into the patrol wagon!" The gendarmes took the protesters in front of the ministry of Agriculture by storm", A.M.P, Antena3.ro, March 16, 2012.

167 "Iaşi: The persons who booed Victor Ponta, each fined 700 Lei for disturbing the public order and peace", R.M., HotNews.ro, March 31, 2012.

168 "Victor Ponta, booed in Iaşi. A small group chanted «Thieves» and «Traitors» and accused the Prime Minister of protecting Adrian Năstase", Alina Neagu, HotNews.ro, March 31, 2012.

169 "A drive in the Gendarmerie's armored car, from Hala Matache to Police Station 3", ActiveWatch.ro, October 6, 2012.

170 "Hala Matache shall be rebuilt 50 metres from its initial location and its original features shall be preserved", Alina Neagu, HotNews.ro, March 31, 2012.

171 "A drive in the Gendarmerie's armored car, from Hala Matache to Police Station 3", ActiveWatch.ro, October 6, 2012.

172 Ibidem.

Freedom of speech is commandeered on sports arenas

This year, the protests, the censorship, the fines and the violence were quite commonplace on the Romanian sports stadiums. At the end of February, during the second half of the friendly game between România and Uruguay, the gendarmes and the representatives of a security company used their batons and tear gas in order to evacuate the supporters from the Southern Side of the field¹⁷³.

They were kicked out of the arena, after protesting against the president of the Romanian Football Federation (FRF), Mircea Sandu, and against the president of the Professional Football League (LPF), Dumitru Dragomir. The enforcement officers also seized a banner reading "FRF=RMGC". The message appeared after the Roșia Montană activists found out that the president of the Romanian Football Federation, Mircea Sandu, sent a request that the Roșia Montană Gold Corporation (RMGC) should sponsor the national team¹⁷⁴. During the mêlée, tear gas was used and several women were hurt¹⁷⁵.

At the rugby match between Romania and Georgia on March 9, a few spectators displayed a similar message, reading "Stop destroying Roșia Montană, stop the corruption". The representatives of the security company immediately intervened and asked them to hide the banner. At first, the fans refused, but they complied after the gendarmes' arrival¹⁷⁶.

The Dinamo fans had an altercation with the bodyguards at the Dinamo - Gaz Metan match, after the Dinamo fans displayed a banner reading: "Mitică, go to the bakery!". The enforcement officers confiscated the banner¹⁷⁷.

On March 25, the gendarmes violently intervened and apprehended over 40 people, pursuant to a protest organized by the fans of certain football clubs. Over 1000 fans of the Dinamo, Universitatea Craiova and Steaua teams gathered in front of the Antipa Museum, in order to protest against the decision of the Romanian Football Federation (FRF) and the Football Professional League (LPF) to expel FC Universitatea Craiova from the competitions organized by FRF and LPF¹⁷⁸. A Gazeta Sportului reporter was assaulted by the gendarmes. The journalist was assaulted because he had gotten close, in order to photograph the moment when the fans began fighting with the gendarmes. Before being taken to the patrol wagons, the fans apprehended by the enforcement officers were kicked and punched by the gendarmes. One man was hit by a gendarme because he was filming with his mobile phone. After these incidents, Gabriel Enache, spokesman for the Gendarmerie, stated that: "Any action for restoring the public peace implies certain risks and, oftentimes, the images are quite violent, but my colleagues always act in full awareness of the circumstances"¹⁷⁹.

On November 14, at the Romania - Belgium match, the stewards dispersed a group of approximately 500 fans, after they streamed a banner, reading: "*You have arrested all Godfathers, but you forgot one*". The "Godfather" is the nickname of the president of the Romanian Football Federation, Mircea Sandu. A few days prior to the incident, several CFR (National Railway Company - CFR) ticket inspectors (also known as "Godfathers") had been arrested for corruption acts. Pursuant to that incident, the stewards apprehended at least 3 fans, one of whom they repeatedly kicked in his upper body region¹⁸⁰.

Violence acts against the freedom of speech

The organizers of a debate and a theatre play about the history of homosexuality in Romania were physically assaulted on the street, immediately after the event ended. The incident occurred on November 6, in close proximity to the place where the debate and the play were held, namely the National School for Political and Administrative Studies. After the performance ended, six of the show's organizers were approached by ten young people wearing hoodies. According to the victims' accounts, the aggressors asked them: "What is it, dudes, are you gay?", after which they punched them¹⁸¹.

A few months later, a group of approximately 50 nationalist activists interrupted the screening of a movie, part of the "LGBT month" (Lesbian, Gay, Bisexual, Transgender) festival, which was being held at the Romanian Peasant's Museum. On February 20, the group holding placards entered the room where the film was being screened, singing the national anthem, followed by religious songs, accompanied by homophobic remarks, such as "Death to homosexuals", "We don't want you here", "You are not Romanians"¹⁸².

Although the director of MTR, Virgil Nițulescu, requested the presence of enforcement officers by calling the police, the policemen and the gendarmes who arrived at the scene did not intervene in view of ending the actions of intimidation and instigation to hate against the spectators present in the room. Mihai Gheorghiu, MTR's deputy director, was also present; he also failed to intervene, even though, according to his professional obligations, he should have taken steps in order for the show to continue.

173 "Desperate people, assaulted on the National Arena!", Eduard Apostol Viorel Tudorache, Gsp.ro, 1 martie 2012.

174 "Mircea Sandu wanted to take money from Roșia Montană's gold", Iuliana Stan, Cotidianul.ro, February 23, 2012.

175 "Incidents at the România - Uruguay match. The gendarmes evacuated the Romanian from the Southern Side of the field VIDEO", realitatea.net, February 29, 2012.

176 "Censorship applied to rugby as well. The gendarmes prohibited the fans' messages", Gsp.ro, March 10, 2012.

177 "Absolutely crazy! The Dinamo fans and the enforcement officers started a fight because of a harmless message about Dragomir! What the banner said.", Prosport.ro, March 4, 2012.

178 Super-gendarmerie - Gazeta's reporters in the violent acts committed at the "Science does not die" meeting: how the Victoriei Square turned into a battleground, Gabriel Berceanu, Gsp.ro, March 26, 2012.

179 "Violent images from the "Science does not die" meeting - Approximately 40 people were apprehended", Jurnalul.ro, March 24, 2012.

180 "Incidents in the stands at the Romania - Belgium match", digi24.ro, November 14, 2012.

181 "<<What is it, dudes, are you gay?>> The organizers of a play on the gay history in Romania, WAITED FOR, AND BEATEN UP after a performance at the SNSPA", Gândul.info, November 6, 2012.

182 "VIDEO A group of persons singing the national anthem and religious songs interrupted the screening of a movie at the Romanian Peasant's Museum", Hotnews.ro, February 21, 2013.

The Pro-Vita association and the Romanian Families' Alliance (AFR) rented two street billboards near the Bucharest "George Coșbuc" High School, on which they wrote this message: "could you bear to see your little boy ... a homosexual? could you bear to see your little girl ... a lesbian? On Olari, down the street, some stuff is happening...". Pro-Vita and AFR's message was directed against the management of the "George Coșbuc" High School, for organizing a seminar on the subject of diversity and human rights, on the occasion of the "LGBT month"¹⁸³. Shortly after this campaign, three persons sprayed pink paint on one of the billboards¹⁸⁴, and the 2nd District Mayor, Neculai Onțanu, ordered that they should be removed and that the companies (who rented the advertising spaces) should each pay a fine of 5,000 Lei¹⁸⁵.

III.1. Aggressions against journalists

One photojournalist was punched

On March 13, 2012, Aurel Teodorescu, ex-husband of Daniela Andreescu, former chief of the Government's General Secretariat, punched a photojournalist who was trying to obtain a statement from him, at one exit of the Ilfov Tribunal, where the divorce proceedings of the two spouses were being held¹⁸⁶.

The incident occurred after an inquiry published by Antena 3, which showed that the relatives of the SGG chief, Daniela Andreescu, carry out economic activities in various spaces of RAAPPS. As a result of said inquiry, Daniela Andreescu was fired.

In November 2011, the Antena 3 compere Mihai Gâdea announced that, after said material was broadcast, he received threats via telephone, from the same Aurel Teodorescu, who apparently wrote: "Some day, I will spit in your face, in the presence of some good faith people, like me"¹⁸⁷.

Mihai Goțiu, journalist and Save Roșia Montană activist, attacked during a Realitatea show

Journalist Mihai Goțiu was physically assaulted both prior to, and after a show produced by Mihai Tatulici in Roșia Montană and was threatened during the same show. The show, broadcast by RealitateaTV on February 5, covered the gold excavation in the Roșia Montană locality. On site, there was a group of people who applauded the RMGC supporters and booed the opponents. Prior to the show, journalist Mihai Goțiu was hit with ice and eggs by the people in said group. After the show, the journalist was forced to seek refuge in the Mining Museum and asked for the help of the police in order to escape the group of aggressors. The next day, he found his car vandalized. Goțiu is known for his opinions against the Roșia Montană excavation.

Pursuant to the Realitatea TV show, ActiveWatch notified the NCA and drew its attention to the fact that the moderator only intervened once, in order to temper the group of RMGC supporters, thus breaching Article 40, paragraph 3 ("Moderators are obligated not to allow their guests [...] to instigate violence"). Another organization that submitted a complaint with the NCA was the Alburnus Maior Association¹⁸⁸.

Mihai Goțiu has been documenting the Roșia Montană situation since 2002 and, even though he says he had been threatened before, February 5 was the first time he was physically assaulted. Some of the members of said group (whom the journalist identified as being "members of the management of the so-called <<The Future of Mining>> trade union") also approached him at the December 9, 2012 referendum, when they "provoked and verbally threatened him (...) under the very eyes of the gendarmes and the police officers from the two Abrud police stations". In an article on his blog, Voxpublica, Goțiu said about them that "they are victims (and the real people who are responsible for what happened are the ones who instigated them). They are victims of the company's manipulations and <<community>> policies".

A journalist was beaten up in the hallway of his block of flats

In May, journalist Dan Bucura of Realitatea TV was beaten up by two men in the hallway of the block of flats in which he lived. Bucura was punched in the face and then hit with a bat on his hands, by two aggressors with covered faces. According to the journalist's statements, the attack was in connection with his professional activity, as one of the aggressors told him to stop appearing on television- "*Now will you stop going on the damn television?*". The bullies then ran through the back of the building, without taking any property from the victim¹⁸⁹. The assaulted journalist reported that the attack occurred after Realitatea TV showed a material filmed with a hidden camera, regarding a possible attempt by 6th District Mayor's Office candidate, Ștefan Florescu, to bribe voters and that one of the sources of the material had been assaulted right before he was¹⁹⁰.

¹⁸³ Investigation at Capital's <<George Coșbuc>> High School. One parent complains about the advancement of the idea of homosexuality among the pupils", Adevărul.ro, February 8, 2013.

¹⁸⁴ "Why I got out of the house at 1 o'clock in the morning, with a bucket of emulsion paint and a mop", Blog.ActiveWatch.ro, February 21, 2013.

¹⁸⁵ "Mayor Onțanu removes the billboards discriminating against sexual minorities and fines their authors", b365.ro, February 21, 2013.

¹⁸⁶ "See images with Daniela Andreescu's husband punching a photojournalist", D.D., Antena3.ro, March 2012.

¹⁸⁷ Case presented in the 2011 FreeEx report - Media freedom in Romania, ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, published in May 2011.

¹⁸⁸ A total of 23 complains shall be submitted to the NCA, see details in the Ethics Chapter.

¹⁸⁹ "Journalist Dan Bucura, BEATEN UP and THREATENED in the hallway of his block of flats: <<Now will you stop going on television?>>", Realitatea.net, May 17, 2012.

¹⁹⁰ "Dan Bucura's aggressors could be identified", A.T., Puterea.ro, May 17, 2012.

ActiveWatch sent an open letter in which it asked the investigative bodies to handle this case with maximum care and attention. Contacted by FreeEx, Dan Bucura declared that the investigation is still in progress and that the Police have identified two persons, suspected of having assaulted one of the sources of the article.

Journalists assaulted in the voting stations

On July 29, on the day of the referendum for the President's revocation from office, a B1 Tv crew was assaulted during a live transmission from the voting station in the Vitănești locality, Teleorman county. The reporter was assaulted and kicked out by several men. Immediately after being kicked out of the voting station, he was pulled back inside, by force, and asked for his identification card, in an ostentatious and violent manner. The incident only ended after the gendarmes arrived on scene and calmed everybody down¹⁹¹.

A female journalist, assaulted during a local Council meeting

In October, journalist Alice Hirsch from the local daily "The opinion leader" was assaulted by several persons during the meeting of the Mihail Kogălniceanu Local Council. The journalist was pushed and tripped and as a result, fell to the floor. According to the journalist, the aggressors were incited by the locality's mayor, Anca Belu, who pointed at the journalist and told the people around her that she was the one who wrote critical articles about them. "I want to specify that I was not involved in today's events. I must also specify that, contrary to the claims that I was the one who persuaded the people to assault the journalist, the people who assaulted her had no connection to me; it was a set-up of the PSD counsellors who wished to leave the meeting", mayor Anca Bello declared. Alice Hirsch recounted that the commune police officer told her: "Lady, see what happens if you don't mind your own business...?"¹⁹².

Cameraman beaten up for trying to protect his colleague

At the beginning of November, a cameraman from the Eforie Tv television station in the county of Constanța was beaten to a pulp after trying to protect his fellow reporter, who was on the verge of being lynched because of a traffic conflict. The aggressors beat up the cameraman for having his camera on. After the first hit, the camera fell down and the image was lost. However, the sound remained on and the surveillance cameras nearby recorded everything. The bullies did not even calm down when the police arrived.

Contacted by ActiveWatch, journalists Iulian Eftimie and Manuela Moldoveanu said that they filed a criminal complaint against the aggressors and that they intend to sue them. "We're still in shock, every night we check whether there's a suspicious car parked in front of the newsroom. I also want to go see a psychologist on Monday", cameraman Iulian Eftimie declared¹⁹³. The bullies ended up with a criminal record for hits and other acts of violence.

Journalists whose cars were vandalized

Victor Ciutacu, editor-in-chief of Jurnalul Național, claims that he was threatened and that his wife's car was vandalized. In July, he noticed that his car's trunk had been scratched with a key and the vandals had left the word "Beating" written in paint. Apart from this message, when the car was taken to the insurer to acknowledge the damages, the mechanics also found a bag stuffed into the motor. Ciutacu filed a complaint and is waiting for the authorities' response¹⁹⁴.

In November, another car, belonging to an Antena 3 correspondent, was vandalized in the parking lot of a block of flats located in the Târgu-Jiu municipality. The incident occurred one day after journalist Gabriela Mladin moderated a political show during which one of the guests criticized the manner in which certain candidates conducted their election campaigns. The journalist found her car with its tires blown up and its windshield splattered with paint¹⁹⁵.

The authorities did not manage to find the perpetrators in either of these cases.

Romanian photographer arrested in Mexico

Romanian freelance photographer Mircea Topoleanu, settled in Mexico, was arrested in December, during the street fights that took place in the capital of Mexico between the protesters and the enforcement officers¹⁹⁶. The journalist was imprisoned for 8 days, in a cell with dozens of other people, being denied the right to an attorney. Arrived back into the country, Mircea Topoleanu said that his money and his camera had been confiscated, he had been beaten up and given very small quantities of food. The photographer was saved from prison by his sister, who started, together with the Mexico press, as well as the Romanian media organizations, a campaign for the release of her brother¹⁹⁷.

191 "A B1 TV crew was assaulted in voting station no. 330 in Vitănești, Teleorman county", B1.ro, July 29, 2012.

192 "Journalist Alice Hirsch was assaulted during the meeting of the Mihail Kogălniceanu Local Council", Constănteanul.com, October 24, 2012.

193 "ActiveWatch condemns the assaults committed against the Eforie TV journalists and asks IPJ Constanța to urgently sanction the perpetrators", ActiveWatch.ro, November 4, 2012.

194 "Victor Ciutacu found his car vandalized and was threatened with a beating", Jurnalul.ro, July 23, 2012.

195 "A journalist's car, vandalized by anonymous authors", Gorjexclusiv.ro, November 27, 2012.

196 "A Romanian photographer was arrested in Mexico", Digi24.ro, December 3, 2012.

197 "The Romanian photographer arrested in Mexico returned home", December 23, 2012.

III.2. INSULTS AND THREATS

Former Prime Minister Victor Ciorbea insulted Mălin Bot on live TV

Invited to the România Exclusiv show of the România TV station, former Prime Minister Victor Ciorbea had a verbal confrontation with journalist Mălin Bot, from the Adevărul daily, who was also on set. Annoyed with certain opinions of the journalist with respect to the political class, Victor Ciorbea started shouting a stream of insults against him.

The conflict started as a result of Mălin Bot's claim that all governors over the last 23 years had been the same. "Child, you have no idea, you were in diapers or you hadn't even been born and you have the nerve to ... who? You? You the hell are you? Learn some history! You're a parrot, paid to shout here! You have no idea what I did as a politician", Victor Ciorbea responded, annoyed by the journalist's comparison.

When Mălin Bot continued by saying: "Mr. Ciorbea has revealed the extent of his education and his own character, by the way he talks with a journalist", Victor Ciorbea became enraged: "Who are you to talk about my education, you diaper-wearing baby? You're nothing but a diaper-wearing baby! Who do you think you are? You're a scumbag! A scumbag who talks like a juke box! The owner's just bought him underpants and sent him on television and he must perform his duty".

Trying to end the debate on set, the show's moderator was advised by Victor Ciorbea: "They're all a bunch of punks, madam, stop inviting them in your shows! Let the punks go on the damn DD TV"¹⁹⁸.

Traian Băsescu insults the journalists

During a meeting at the Group for Social Dialogue, in July, President Traian Băsescu (suspended at the time) insulted the journalists, on the grounds that they attacked the intellectual class. "*I saw fine intellectuals, brilliant minds, being attacked every night by the press hoodlums for not thinking the same way they did. And when I say hoodlums, I am perfectly aware of the meaning of this term*", he said¹⁹⁹.

Gigi Becali, repeated insults on România TV

During the "Evening news" show on RTV, on November 13, 2012, an electoral show, Gigi Becali insulted Andreea Pora. Moderator Laura Chiriac failed to ask Becali to stop insulting her guest. "*I'm not going to start a discussion with Andreea Pora. Becali, with the Pora woodpecker. She's Woody the Woodpecker*", said the businessman via telephone. The journalist replied: "*I have already told you that I do not wish to have any discussion with Mr. Becali and that I shall leave the show. I do not want any Ferentari-like gutter talk, any indecent behaviour; I'm not interested in Mr. Becali in any way whatsoever*". Laura Chiriac then asked the speaker on the line what he would do if he received a minister's portfolio in the next government. "*I'd develop the woodpecker market [...] I would make many cages for the woodpeckers*", he insisted, without being asked by Chiriac to stop. Andreea Pora left the set, during the show²⁰⁰.

Two days later, Gigi Becali also insulted Radu Carp, director of the Romanian Diplomatic Institute, live, on the same show, without being interrupted by moderator Iulia Nagy. "*He's an idiot and I don't talk to idiots. Head of diplomacy my ass... He's an idiot, he doesn't know anything about any norms*", the businessman kept repeating. "*If I had a woman like you in my family, I would exile her. It would be my family's biggest disgrace if I had in my family a woman like you, who lurches in building hallways*", Becali told Adriana Săftoiu, in another televised intervention, also on România TV. For the three interventions, the România TV station was fined 20,000 Lei by the NCA, for breaching the regulations on the protection of human dignity, slandering language and the moderators' obligation to prevent such language²⁰¹.

Puiu Hașotti, Minister of Culture, called a Iași journalist a "moron" and an "idiot"

Valentin Huțanu, a reporter of the Iași tabloid Bună ziua Iași, was insulted by the minister of Culture, Puiu Hașotti, for calling him several times, in order to request an interview. The journalist had found out that the director of the Moldova National Museum Complex was to be replaced with one of the minister's fellow party members and former schoolmate. After several calls, Hașotti called Huțanu "*a moron and an idiot*" because he did not give up when he told him he could not give him the interview²⁰². The minister subsequently called to apologize for his reaction.

Ilie Năstase assaulted a crew of journalists

In February, former tennis player Ilie Năstase swore at, and physically assaulted a crew of journalists on the Otopeni airport. The reporters were there in view of obtaining a reaction to the accusations made against him by the Romanian Tennis Federation, regarding certain financial irregularities committed during the period when Ilie Năstase

¹⁹⁸ "Victor Ciorbea has a nervous outburst during a show", Rtv.net, October 7, 2012.

¹⁹⁹ "Băsescu, annoyed by <<the press hoodlums>> who attack <<the country's fine intellectuals>> on television", Clarice Dinu, Gândul.info, September 18, 2012.

²⁰⁰ "Pora, badly insulted by Becali, left the live show", Rtv.net, November 13, 2012.

²⁰¹ "RTV, fined 20,000 Lei for Gigi Becali's outbursts", Iulia Bunea, PaginadeMedia.ro, November 20, 2012.

²⁰² "The Minister of Culture, to a journalist: Are you an idiot, are you a moron!", Ziare.com, October 5, 2012.

acted as president of the federation. *"Dude, get the hell out of here! Out of the way! Do you want me to hit you? Are you stupid? Are you stupid, dude? Do you want me to beat you up? Get the hell out of here, you moron!"*, the former tennis player told the cameraman²⁰³.

Liliana Ciobanu, freelance journalist, threatened for her collaboration with The Economist and CNN

Liliana Ciobanu, freelance journalist, was threatened and slandered because of her collaboration with CNN and The Economist²⁰⁴. She wrote several articles between June and July 2012, on the Romanian political situation, the Prime Minister's plagiarism and the conflict between Victor Ponta and Traian Băsescu.

After publishing the articles, the journalist received a series of telephone calls from restricted numbers, saying *"You are being watched!"*. When the journalist went to the Police, they said that they couldn't do anything, because Law 12/2012 on the retention of data generated or processed by the providers of public electronic communication networks prohibited them from acting, as the telephone calls were not considered explicit threats.

At the same time, the Cotidianul.ro online publication wrote about her: *"Another anti-Romanian agent is discovered by cotidianul.ro. The Economist is, in fact, Liliana Ciobanu, former Realitatea TV reporter. The case of Liliana Ciobanu proves, as clearly as possible, the method by which such agents disinform Romanian public opinion, exerting an artificial pressure in political life. Thus, Liliana Ciobanu positions herself at the head of the list of misinformants paid for such services, together with Carmen Valică of Radio România, Professor Kim Lane Scheppele of the Princeton University, Bulgarian Alexander Levy and ICR scholar Raul Sanchez Costa. That, in a list which certainly remains open"*²⁰⁵, Cotidianul wrote. (read details in the "Pressures" chapter.)

Radu Mazăre, insults by prin SMS sent to B1TV

During the "Called into question" show, broadcast by the B1TV television station, on June 4, 2012, the mayor of Constanța county, Radu Mazăre, sent an SMS to the show's producer, Robert Turcescu, in which he used insulting words directed against the guest on set, but also against the entire TV station. The reaction came as a result of the accusations made by the show's guest, the PDL candidate for the Constanța municipality's city hall, Christian Gigi Chiru, which accusations referred to the retrocessions endorsed by the mayor currently in office, Radu Mazăre. Contacted by the show's producer in order to request an opinion, Radu Mazăre failed to answer the telephone and subsequently sent an SMS, reading: *"All of Băsescu's servants can kiss my ass! Both you and Chiru"*²⁰⁶.

Cluj politician Alin Tișe insults journalists who discuss issues of a public interest

On January 20, 2012, Alin Tișe, president of the Cluj County Council, swore at journalist Mihai Șoica and threatened him with running him over with his car. Tișe felt wronged when asked several questions related to the maintenance contract for the Cluj Arena stadium.

"I can assure you that I will run you over with my car", Tișe stated with respect to Mihai Șoica and his brother, Horea Șoica, both journalists in Cluj. The official accused them of barging into his private life after they had written about how many houses he had and wrote an article covering his son's baptism in 2011. Tișe avoided the subject related to the stadium²⁰⁷.

Laurențiu Reghecampf and Mihai Stoica threaten and insult journalists

Laurențiu Reghecampf, coach of the Steaua București football team, threatened journalists. On August 9, 2012, when he was exiting the hotel in which he stayed for his team's training camp in Austria, the technician told them to stop taking pictures. The journalists did not stop. *"I'll break your cameras and then I'll kick the shit out of all of you"*, he shouted, calling the Antena1 operator "an idiot", after which he left²⁰⁸. The Steaua coach had such outbursts in the past.

Beginning from June 30, the Steaua București football team, together with its new coach, Laurențiu Reghecampf, was on a training camp in Austria for over a week. Several Romanian journalists from sports publications had also been sent to Kaprun, the city in which the training was being conducted. Gazeta Sporturilor sent reporter Ionuț Răureanu and Prosport sent Daniel Vlad. On July 2, one of them was taking some pictures during a training and the players told him that he would be sued by the club if he published the pictures. In the evening, manager Mihai Stoica called them at the hotel, in order to discuss the collaboration between Steaua and the journalists during the junket. *"I don't respect you. I can see it in your eyes that you do not respect me either"*, Stoica's speech began. Răureanu interrupted him: *"MM, we did not come here so that you can psychoanalyze us"*, and at that point, coach Reghecampf intervened, saying: *"You're a bit impertinent, a bit cheeky. You got a little bit too much nerve, I'll talk to your boss!"*, and he told the journalist that he could call anybody, but his call would have no effect. *"I'll prove to you that if I don't want you to write something, you won't write it. I'll call your superiors and I'll prove it to you"*, added

203 "*<<Dude, get the hell out of here!! Do you want me to hit you?>>* Ilie Năstase's reaction to the reporters of Antena3", Antena3.ro, February 2, 2012.

204 "*Request of a right of rebuttal. Liliana Ciobanu vs Cotidianul*", ActiveWatch.ro, July 9, 2012.

205 "*Another anti-Romanian agent is discovered by Cotidianul.ro. <<The Economist>> is, in fact, Liliana Ciobanu, former Realitatea TV reporter*", Ion Spănu, Cotidianul.ro, July 8, 2012.

206 "*Radu Mazăre, to the <<Called into question>> show: << All of Băsescu's servants can kiss my ass! Both you and Chiru!>>*", B1.ro, B1TV, June 4, 2012.

207 "*Alin Tișe, Boc's godson, threatens a journalist with running him over with his car*", Știri de Cluj, January 19, 2012.

208 "*Reghe had another nervous breakdown: I'll break your cameras and then I'll kick the shit out of all of you*", Andrei Crăițoiu, Gazeta Sporturilor, August 10, 2012.

Reghecampf, but the GSP journalist claimed again that at his publication, that was impossible. At that point, Steaua's coach raised his voice, going towards the journalist: *"You really are a bozo, you're a moron! Get out of here, before I kick your ass"*. Mihai Stoica put himself in front of the coach, telling him to stop²⁰⁹.

After the incident, when he was called on the phone for an intervention in a sports show, Laurențiu Reghecampf confirmed the dialogue, but added: *"I did not threaten him and I did not want to beat him up. It was only a discussion between two men"*.

After the Steaua-Spartak Trnava friendly game of August 2, 2012, when he was called on the phone, on live TV, during the "The exact time in sports", Mihai Stoica had a nervous outburst, insulting journalist Alin Buzarin, who was on the Sport.ro set. *"I advise you to mind your own business and say whatever you want, but don't you tell me ... don't you recommend to me what I have to say. You cheeky bastard, you notorious imbecile! If you're not interested, stop calling me. You retard! If you're not interested, stop calling me"*, Stoica also said and then he hung up.

A Baia Mare journalist was threatened after publishing an inquiry

After being attacked in a parking lot three years ago, Baia Mare journalist Romeo Roșianu was threatened again, together with his family, for his publicistic activity. On June 1, Roșianu got hold of a conversation between a newsroom colleague and businessman Dan Bucată, during which conversation, Bucată warned him that he would hurt journalist Romeo Roșianu and his family and he would sexually abuse journalist Claudiu Florescu as a result of several articles written by them, regarding the illegal VAT returns. Their exposures with respect to the illegal VAT returns, published since 2008, resulted in the arrest of 16 people and the judgment of 29 people without imprisonment. Dan Bucată is the owner of one of the companies involved in the illegal VAT returns, an investigation which the two journalists published in the *Necenzurat* publication. The authors of the articles were also threatened after the publication of the exposures in 2008 and filed complaints, but the case was filed away and the journalists demanded that it should be reopened.

Contacted by FreeEx, Romeo Roșianu declared: *"There is an unbelievable mafia in Maramureș. My show was suspended after publishing the materials - a sign that we have a very active political class, I was sued for making public some public documents and other stuff. Being honest is hard."* he also specified that during the period immediately following the publication of the inquiries, the company that administers his publications was subject to 11 fiscal controls, and his websites were attacked by hackers.

CONCLUSIONS:

- The abusive behaviour of the enforcement officers during street manifestations or on sports arenas is perpetuated.
- During the street actions, enforcement officers act in an indiscriminating manner, making no difference between the journalists and the protesters.
- There have been several cases of aggression at events for the promotion of the LGBT persons' rights.
- Politicians are the authors of the most insults and threats against journalists.
- A few journalists have suffered serious physical assaults, one of them being attacked in the hallway of the very building he lived in.

RECOMMENDATIONS FOR THE AUTHORITIES AND POLITICIANS:

- Respect the journalists' mission to collect and broadcast information. The aggression acts, the threats and the insults against the press are unacceptable, especially when they come from the authorities and the public figures.
- The enforcement officers need to take initiative when a journalist (or any other citizen) is assaulted and to take the necessary steps.
- Publicly condemn the acts of aggression against journalists, inform about sanctions and the completion of cases and disseminate case studies in the Police Academy and other similar education institutions, when hiring community police officers and on the police station notice boards.
- For the Gendarmerie and the Police: Instruct the intervention teams to respect and protect the journalists and those who document reality in the field.

RECOMMENDATIONS FOR THE JOURNALISTS:

- Submit complaints against the aggressors and publicly disclose events of this kind, try to collect evidence, find witnesses and precise data.
- Notify the media organizations if you are assaulted and request their support (public reactions, discussions with the authorities, legal assistance etc.).

209 "Trouble in Paradise: <<Get the hell out of here! Good bye!>> MM shouted at the press, Reghe wanted to beat up a journalist!", Costin Ștucan, ProSport, July 4, 2012.

IV. THE RIGHT TO DIGNITY, PERSONAL PORTRAYAL, PRIVATE LIFE

Doctor Valeriu Nicula vs Tudor Știrbu and Clujeanul

In March, journalist Tudor Știrbu was forced, jointly with the company that publishes the Clujeanul weekly newspaper, to pay moral prejudice in the amount of EUR 5,000, for publishing an article about a case involving a medical doctor, back in 2006.

The article was based upon the criminal complaint filed by an Italian citizen, who accused Dr. Valeriu Nicula of malpractice. The Italian claimed that he wanted to get a hair transplant and had been subjected by Dr. Nicula to several surgeries. The journalist published at length the involved doctor's standpoint, who explained that the Italian had come here for a rejuvenation operation, that such interventions also have certain risks and that his eye exam, when the Italian was discharged, showed that his eyesight had not been affected. The article had been written in a balanced manner.

The doctor filed a civil lawsuit, requesting moral prejudice in the amount of EUR 100,000, considering that, by means of the title on the first page, his image was prejudiced and, as a result, he lost part of his clients. The main accusation was the title on the first page of Clujeanul: "He went blind after the aesthetic surgery". The doctor submitted, as evidence, the decision of the Doctors' College, who absolved him of any medical guilt, as well as the public prosecutor's decision not to commence criminal prosecution. The public prosecutor's decision had been issued 7 months after the publication of the article. The doctor complained that no right of rebuttal was published after the completion of the investigations of the Public Prosecutor's Office and the Doctors' College.

In 2012, the Cluj Tribunal forced the journalist and the Clujeanul publication to pay moral prejudice in the amount of EUR 5,000, as well as court expenses (approximately EUR 400), "considering that they represent a measure that is both reasonable and proportional to the intended purpose, to reestablish the balance between the interests sought in the case"²¹⁰. The Tribunal decided that the claims included in the title and the contents of the article were not in accordance with reality, as after the publication of the article, it was established that the plaintiff acted correctly in all of the therapeutic stages and the surgical operations did not affect the patient's eyesight²¹¹.

At the end of 2012, the Cluj Court of Appeals partly admitted the second appeal filed by the journalist and the company publishing the Clujeanul weekly newspaper²¹². The Cluj Court of Appeals found that the tribunal did not review, under any aspect, whether in that specific case, the legal requirement regarding the journalist's guilt was met. However, by means of a new decision, at the beginning of 2013, the Cluj Tribunal maintained the sanction of forced payment of moral prejudice in the amount of EUR 5,000. On the date of publication of this report, the decision's motivation had not yet been published. The journalist is preparing a new second appeal at the Cluj Court of Appeals.

Dumitru Sechelariu vs blogger Florin Popescu

In September 2012, Bacău journalist and blogger Florin Popescu lost the second appeal at the Bacău Court of Appeals, in the lawsuit filed by businessman Dumitru Sechelariu, former mayor of Bacău, on the grounds that his image, his honor and his dignity had been damaged²¹³.

Dumitru Sechelariu had sued Florin Popescu after the latter published several articles on his blog, about Dumitru Sechelariu, between 2009 and 2010, and appeared on a televised show, during which he commented upon the former mayor's activity. Dumitru Sechelariu had demanded moral prejudice in the amount of 300,000 Lei (around 70,000 Euro). The Bacău Court of Law decided that the articles and the televised show complied with the limits of the freedom of speech, but considered that, in the case of a poll published on the blog, together with an article, "the limits of the freedom of speech had been crossed"²¹⁴. The question of said poll was: "How much is the honor of the Sechelariu family worth these days?". The court determined that the response options of the poll ("not even sixpenny", "two billion", "there's no way they're going to recover from this", "sixpenny") caused Dumitru Sechelariu "anxiety, concern and heartache", a fact which was confirmed by two employees of the former Mayor, attending the lawsuit as witnesses²¹⁵.

Despite claiming that the inculpative poll was a pamphlet intended to ironize the circumstance in which three members of the Sechelariu family simultaneously sued two journalists, demanding damages in the amount of 200,000 Lei (this information was published in the article accompanying the poll), the court forced blogger Florin Popescu to pay

²¹⁰ Civil Decision no. 162/A/2012 of the Cluj Tribunal, in case file 6430/211/2009.

²¹¹ Excerpt of Court of Appeals' Decision no. 4259/R/2012.

²¹² Court of Appeals' Decision no. 4259/R/2012.

²¹³ Decision no. 1474/2012 of the Bacău Court of Appeal, Civil Section I, in Case File no. 5414/180/2010.

²¹⁴ Civil Decision no. 4158 of May 12, 2011, passed by the Bacău Court of Law, Civil Section, in Case File no. 5414/180/2010.

²¹⁵ Ibidem.

moral prejudice in the amount of 5,000 Lei (1100 Euro). The Bacău Tribunal maintained its decision²¹⁶. The judges claimed, contrary to the real meaning of article 10 of the European Human Rights Convention, that: "Free speech must, under no circumstance, result in a breach of the other persons' right to honor, dignity and their personal portrayal". The court continued, claiming: "Thus, even though the press has the right to convey information and ideas with respect to issues of a public interest, it should not infringe upon the reputation and the private life of a person, by also involving such person's family members". We should specify that Dumitru Sechelariu's family was directly involved in his business operations (for example, his mother is the owner of the public transportation system, privatized during Dumitru Sechelariu's mandate as the mayor of Bacău, his wife is a shareholder of the Deșteptarea trust, set up by Sechelariu etc.). Also, the blogger was not condemned for claims that had much more serious implications with respect to the former mayor's reputation (accusations of collaboration with the former Secret Police, corruption accusations). In its turn, the Bacău court of appeals, in order to argue why it had dismissed the blogger's second appeal, quoted, in support of its decision, the *Lingens vs. Austria* resolution²¹⁷, even though in that case, the journalist won at ECHR, after receiving a penal fine for calling the then Austrian chancellor "an immoral man" and "an opportunist". With the support of APADOR-CH, the journalist filed a complaint with the European Court for Human Rights.

The wife of deputy Leșe vs Romeo Roșianu

În 2012, Mihaela Leșe, medical doctor, the wife of deputy (at the time) Doru Leșe, won a lawsuit against Maramureș journalist Romeo Roșianu and the company that published two websites (*Știri MM* and *Ne-cenzurat*) where the journalist operated and whose owner he was. The doctor's action targeted several articles and TV shows of the journalist. Said articles and shows referred to Mihaela Leșe's professional activity as a medical doctor, as well as the plaintiff's capacity as a businesswoman. The journalist denounced possible acts of corruption, some of which also involved deputy Doru Leșe, Mihaela Leșe's husband. The articles also made references to aspects pertaining of Mihaela Leșe's private life (the intimate relations between her and her husband, assessments related to the plaintiff's physical appearance).

By means of a decision of the Maramureș Tribunal²¹⁸ of January 2012, the court admitted the application for injunction filed by plaintiff Leșe Eugenia Mihaela and forced Roșianu "to cease breaching the rights of a non-patrimonial nature regarding the plaintiff's personal portrayal, dignity and private life" on a temporary basis, until a final decision was made in case file 7859/100/2012 registered with the Maramureș Tribunal.

ActiveWatch - Media Monitoring Agency criticized this decision in an open letter, considering it vague, ambiguous, groundless, incommensurate with the facts and representing an extremely dangerous precedent for the exercise of the right to free speech and for securing the public's right to be informed with respect to issues of public interest²¹⁹.

At the judgment on the merits, by means of a decision made in June 2012²²⁰, the Maramureș Tribunal dismissed the plaintiff's demands to force the journalist to delete a number of articles from the two websites and other websites that he did not own. However, the court forced him to pay moral prejudice in the amount of 2.300 Euro, plus court expenses. The plaintiff had demanded damages in the amount of 1,200,000 Euro, plus 220 Euro Lei for each day of delay of the decision's enforcement. The court also forced the journalist and the publishing company SC Intensiv Media Production SRL to broadcast in audio and video format, at their own cost, on the Maramureș TV station or on other television stations, in four successive editions within the 18.30 - 20.00 interval, as well as to publish on the *ȘtiriMM* and *Ne-cenzurat* websites, the final part of the decision, within 10 days after the decision was deemed final.

In September 2012, the Cluj Court of Appeals changed said decision²²¹. The quantum of the moral prejudice and the obligation to pay court expenses (those pertaining to the second appeal were added as well) were maintained. The obligation to publish the final part of the decision was maintained as well. For the first time, however, the court forced the journalist to "remove the articles that infringed upon the plaintiff's non-patrimonial rights, from the *Ne-cenzurat* and *ȘtiriMM* websites" (12 articles mentioned by the decision).

The court made this decision not only in order to sanction the journalist's claims that referred to the plaintiff's private life, but also to sanction his other claims, which referred to the plaintiff's public activity.

On March 5, 2013, the High Court of Cassation and Justice prosecuted the petition to suspend the decision's enforcement, filed by the journalist. The suspension petition was dismissed. The second appeal's judgment on the merits shall be conducted in December 2013.

ActiveWatch prepared a point of view regarding coercing the media to delete articles the content of which is of a public interest. Thus, ActiveWatch believes that the decision of the Cluj Court of Appeals represents a dangerous precedent for freedom of speech. Coercing a journalist to delete articles the content of which is of public interest may be considered a measure that is not necessary in a democratic society, does not serve any pressing social need and is characterized by a lack of proportionality. This measure could be considered incompatible with the case law of the

²¹⁶ Civil Decision no. 303/2011 of October 31, 2011, passed by the Bacău Tribunal, Civil Section.

²¹⁷ Application no. 9815/82, Court resolution of July 8, 1986.

²¹⁸ Decision no. r 73/January 19, 2012 of the Maramureș Tribunal, Civil Section I, in case file 7860/100/2011.

²¹⁹ A court decision prevents a journalist from writing about the wife of a deputy, Open letter published on March 26, 2012, <http://www.activewatch.ro/ro/freeex/reactie-rapida/o-sentinta-a-justitiei-impiedica-un-jurnalista-sa-relateze-despre-sotia-unui-deputat>

²²⁰ Decision no. 1123/June 19, 2012 of the Maramureș Tribunal, Civil Section I, in case file 7859/100/2011.

²²¹ Civil Decision no. 88/A/September 25, 2012 of the Cluj Court of Appeals, Civil Section I, in case file 7859/100/2011.

CONCLUSIONS:

- Politicians, public figures and various citizens continue to harrass journalists and to try to intimidate them, by suing them without any solid grounds for information that they published.
- Romanian courts do not always comply with the ECHR case law, which they sometimes misquote and sometimes they also very easily award punishments for journalists and citizens accused of insults, slander or denigration. The execution of the law continues to be non-unitary, which means that many people who are convicted in the Romanian courts turn to ECHR.
- Year 2012, as a result of the new civil code's coming into force, was marked by a few court decisions that overtly infringed upon the freedom of speech and may represent an extremely dangerous precedent for the manner in which the press can continue to exercise its role to report in the public interest.

RECOMMENDATIONS FOR JOURNALISTS:

- Publicly expose the abusive decisions of the courts against journalists and citizens who exercise their right to free speech.
- File a complaint with ECHR if you are subjected to a final decision to pay disproportionate compensation or if you receive exaggerated punishments for infringing upon the reputation or dignity of a person or for breaching their right to private life.
- When you are involved in a lawsuit, request the payment of court expenses.

RECOMMENDATIONS FOR AUTHORITIES, POLITICIANS AND OTHER CITIZENS:

- Respect the right to free speech.
- It is advisable for public figures to avoid taking journalists to court, because they do have, at their disposal, other means of counteracting the slandering information directed against them (public speeches, press conferences, etc.).

V. THE ACCESS TO INFORMATION OF PUBLIC INTEREST

The state institutions continue to manifest a profound contempt for transparency and the public debate of normative acts. This type of attitude occurs not only in the practices of local institutions and public authorities; unfortunately, it also occurs, and sometimes aggressively, even at the highest level of the political class. This lack of respect towards elementary principles of democracy, by blocking the public's access to the legislative process, was visible when the press was evicted from the debates on the budget law or the IMF discussions, but especially from the process of amendment of the Constitution, over the first months of 2013.

Dignitaries do not answer either their e-mails, or letters

In March, Facebrand.ro and APTI (the Association for Technology and the Internet) wanted to see how easily Romanian dignitaries could be contacted with respect to a legislative proposal²²³. They each sent an e-mail to all known e-mail addresses of the 322 parliamentaries (a total of 663 e-mail addresses) and asked their opinion on the petition to dismiss a legislative proposal which breaches the citizens' private life, which at the time was under debate at the Chamber of Deputies. No one answered.

The organizers then took all postal addresses of the dignitaries, found on the website of the Chamber of Deputies. They sent 322 letters and waited for a response for 30 days. 21 letters returned to their sender and, to the other 301 letters sent, APTI received three responses - none of which was related to the subject.

The Court of Accounts wanted to delete the irregularities of AGERPRES

The Romanian Court of Accounts (CCR) asked the Romanian Journalists' Federation *MediaSind* to delete from the federation's website, www.mediasind.ro, the CCR report that flagged the legislative breaches and the fraudulent

²²² ActiveWatch letter to Ioan Romeo Roşianu.

²²³ "On how you CANNOT contact our parliamentaries!", Nicoleta Fotiade, Blog.Activewatch.ro, March 23, 2012.

management of public money by the management of the National Press Agency AGERPRES²²⁴.

The document was obtained under law 544/2001, after the Bucharest Tribunal decided, as a result of a request from the Professional Journalists' Union MediaSind, that the AGERPRES administration was supposed to communicate the Report to the Court of Accounts²²⁵. MediaSind announced the court, from the very beginning, that it wished to publish the report and "*disclose it to its members and to public opinion*".²²⁶

Valentin Chiş, head of the Court of Accounts' Division for Communication, Image and Public Relations, threatened MediaSind that, in the event of its refusal to delete said report, "*he shall resort to legal measures in order to have it deleted from the hosting website*"²²⁷. Chiş motivated his request by saying that the "*irregularities discovered by the inspectors had been remedied and the published article is incomplete and biased*"²²⁸. This claim is not supported by any evidence - no subsequent report of the Court of Accounts refers to any remedy of such irregularities.

Ioan Roşca, AGERPRES manager, used to be the spokesman for the current CCR chief, Nicolae Văcăroiu, when the latter was the leader of the Romanian Government.

AGERPRES appealed the Bucharest Tribunal's decision. On October 1, 2012, the Bucharest Court of Appeals dismissed the second appeal filed by AGERPRES against the Bucharest Tribunal's decision²²⁹.

Mayor Onţanu revokes credentials because of "unreal questions"

On August 28, 2nd district mayor Neculai Onţanu revoked the credentials of Agerpres correspondent Mihaela Tudorache, on the grounds of "*the totally improper behaviour*" of the editor towards the mayor, which allegedly generated "*a series of unnatural pressures which were inappropriate in the relationship between an editor and an institution of the local public administration*", which "*is also apparent from the biased and unreal questions*"²³⁰ asked by the journalist.

Notified by the journalist, the Professional Journalists' Union specified that the reason given by mayor Onţanu for revoking the credentials "*does not justify the abusive measure exercised against the journalist, as long as he, in his public capacity, is obligated to answer the press' questions, even if they are uncomfortable and are related to his private life*"²³¹.

Freelance journalists not accredited by BEC at the referendum regarding Roşia Montană

In December, journalist Mihai Goţiu did not receive accreditation from the Alba Division Electoral Office - BEC, in order to participate, as an observer, in the Referendum regarding the possibility that the mining in the Apuseni Mountains and the mining excavation in Roşia Montană should be resumed. The authorities claimed that "independent journalists cannot be accredited at the referendum". Their motivation was based upon Central Electoral Office Resolution no. 2 of November 29, 2012²³².

The Negotiations with IMF, hidden from the press/public

On January 28, 2013, the president of the budget Committee of the Chamber of Deputies, Dan Radu Ruşanu, decided to evict the press from the discussions with IMF representative Erik de Vrijer, upon his request. Erik de Vrijer's request came as a result of the heated debates during the meeting, in which Ruşanu harshly criticized the economic measures imposed by the IMF. Erik de Vrijer accused Ruşanu of trying to exploit the meeting in the media and asked him to evict the press in order to have a "constructive" discussion. "*I understand that you have your reasons for saying these things, which are nothing but groundless claims. (...) I thought we were having a press-free meeting. If you want us to have a constructive exchange of opinions, I would like to continue our discussion in the absence of the media representatives*"²³³, Vrijer stated.

The same committee voted, at the proposal of president Dan Radu Ruşanu (PNL), upon limiting the access of the press to one hour per day at the meeting in which the budget for 2013 was being discussed. The reason invoked by Ruşanu was that the parliamentaries were "crammed" in the meeting room and that the debates were broadcast in full on the Chamber of Deputies' website, anyway.

²²⁴ "The Court of Accounts prohibits the publication of reports on the fraudulent management of public money in AGERPRES!", MediaSind.ro, May 25, 2012.

²²⁵ "MediaSind won the lawsuit with Agerpres", Bianca Damian, ReporterVirtual.ro, December 15, 2011.

²²⁶ "The Court of Accounts prohibits the publication of the reports regarding the fraudulent management of public money in AGERPRES!", MediaSind.ro, May 25, 2012.

²²⁷ Ibidem.

²²⁸ Ibidem.

²²⁹ "The Bucharest Court of Appeals forces the management of ANP AGERPRES to publicly disclose the information demanded by the union", Mediasind Press Release, MediaSind.ro, October 1, 2010.

²³⁰ Press Release of the Professional Journalists' Union, August 29, 2012, www.mediasind.ro.

²³¹ Press Release of the Professional Journalists' Union, August 29, 2012, www.mediasind.ro.

²³² "<I'll kick the shit out of you!>>". Terror in Alba. At the Roşia Montană referendum. Alba Electoral Office refuses to accredit independent journalists", Mihai Goţiu, voxpublica.realitatea.net, December 6, 2012.

²³³ "Ruşanu harshly criticized the FMI at the beginning of the Committees' discussion. De Vrijer asked that the press be evicted", Mediafax.ro, January 28, 2013

The Constitution's amendment, reserved to the "political elite"

In 2013, Romanian politicians decided that the process of amendment of the fundamental law should be carried out behind closed doors, without press or civil society access. The president of the Senate and the Committee for the revision of the Constitution, Crin Antonescu, announced that the press and civil society shall not have access to the Committee's procedures, invoking the exclusive competence of the political elite in this process. *"The amendment of the Constitution is a political proceeding, not a judicial technique one. The Committee is formed of parliamentarians, chosen by the political parties. There's no need for the press to participate in the Committee's proceedings, because I don't participate in your newsroom meetings. There shall be no secret, as the information shall be publicly disclosed. Do not worry"*²³⁴, Antonescu declared.

Open data starts producing results

The concept of open access to data and information of public interest (open data) has become known and started being used by several online publications²³⁵. In Romania, the concept has been promoted by the geo-spatial.org online platform²³⁶, which came up with the idea of creating an interactive cartographic application for presenting the results of the 2012 parliamentary elections. The result of this idea materialized into the PoliticalColours.ro project²³⁷, developed under the protection of the Media Innovation Laboratory "The Sponge"²³⁸, a project which won the Open Media Challenge competition.

CONCLUSIONS:

- The relevant information, from a public interest point of view, is sometimes barred from publication for political and/or economic reasons.
- 11 years after the coming into force of Law 544/2001 on the free access to information of a public interest, the authorities are still a long way away from understanding the spirit of the law and complying with its provisions.
- The authorities procrastinate or ignore the obligation to offer information of a public interest and sometimes even hinder (at a bureaucratic level) the access to such information.
- The press' and public's access is systematically blocked from the debate of significant normative acts.
- The open data concept has started being instrumentalized by journalists and activists and producing results.

RECOMMENDATIONS FOR JOURNALISTS AND EDITORS:

- Read and use the Law on the access to information of a public interest.
- Request a registration number for each application for information of a public interest.
- According to Law 544/2001 on the free access to information of a public interest, the authorities are obligated to inform you in writing with respect to the delay of the response, if they exceed 10 days following the application's registration.
- If the authorities fail to provide you with a response within 30 days following the registration of the application for information, go to court.
- Use the open data instruments and collaborate with IT activists in order to develop databases that can produce relevant data by using the information available in the public space.

RECOMMENDATIONS FOR THE AUTHORITIES:

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

²³⁴ "Antonescu secretly revises the Constitution: <<It is a political proceeding. There's no need for the press to participate in the Committee's proceedings >>", Sorina Ionaş, Gândul.info, February 18, 2013.

²³⁵ "The map of the candidates to the Chamber of Deputies and the Senate. See the complete lists in your college", Victor Cozmei, Luminița Pîrnu, HotNews.ro, November 1, 2012.

²³⁶ <http://www.geo-spatial.org>

²³⁷ <http://www.politicalcolours.ro/>

²³⁸ <http://thesponge.eu/>

RECOMMENDATIONS FOR THE PRIVATE ENTITIES:

- The private entities must respect the citizen's right to be informed and refrain from any measures that restrict the circulation of the information of a public interest.

VI. THE MEDIA MARKET

In 2012, the Romanian media operated at distress levels. Just like in 2011, the media environment was torn apart by the economic crisis, management and shareholding changes, bankruptcies (financial and/or "moral"), unsustainable survival solutions, insolvencies, political and economic pressures, salary delays, strikes, reorganizations and resignations.

VI.1. The print press in 2012

The written press continued to be a marginal means of information in 2012. Just like in the previous years, the circulations, the advertising investment and the number of print publications have dropped vertiginously²³⁹ in the context of the extension of the economic crisis and the interest shifted to television, the online media and, according to the PwC Global Entertainment and Media Outlook report, "The media strategies of development in the digital field" (on tablets, smartphones etc.)²⁴⁰.

Print ratings dropped by approximately 25%, the circulations of the publications by 35-40%, and the budgets allotted for print advertising dropped by up to 85% between 2008 and 2013, according to the president of the Romanian Office for Circulation Audit, Silviu Ispas²⁴¹.

In 2012, the Romanian newspapers with the highest circulation were: the Click! and Libertatea tabloids, the România liberă, Adevărul, Jurnalul Național and Evenimentul Zilei dailies, the sports newspapers Gazeta Sporturilor and Pro Sport and the financial publications Ziarul Financiar, Capital, BIZ and Business Magazin, according to the Romanian Office for Circulation Audit (BRAT)²⁴². In decreasing order of circulation, the situation of printed copies sold over the last quarter of 2012 was as follows: Click (132,947), Libertatea (92,622), România liberă (30,290), Gazeta Sporturilor (29,989), Jurnalul Național (19,693), Pro Sport (18,272), Adevărul (17,939), Evenimentul Zilei (15,902), Ziarul Financiar (8,446), Capital (8,084), BIZ (6,481), Business Magazin (5,281)²⁴³.

Also, the local press dailies with the highest number of sales are Ziarul Unirea - in the Alba County, Jurnalul Arădean, Gazeta de Sud - in Craiova and Tribuna - in Sibiu, according to BRAT²⁴⁴.

Most of these publications and the groups they belong to were, however, faced with numerous difficulties caused by a drop in the advertising budgets. The Media Fact Book estimates²⁴⁵, conducted by the Initiative Advertising Agency, indicated investments of EUR 23 million in the print press advertising for 2012 - which means a dramatic drop, of approximately 75%, from 2008, when the print advertising investments were of EUR 82 million²⁴⁶.

VI.2. The TV market

Election year 2012, marked by the local and parliamentary elections, was an opportunity to launch numerous local, regional and national televisions, a phenomenon which had been foreseen and commenced since 2011²⁴⁷, when the NCA awarded over 50 television broadcasting licenses²⁴⁸. Most of the televisions launched during this period are associated with politicians or businessmen suspected of financing the press for propagandistic purposes²⁴⁹.

Even though the economic context was and is detrimental, at the beginning of year 2013, the NCA data indicated the existence of over 700 Romanian televisions²⁵⁰. A press release sent by the National Council of the

²³⁹ "The latest print sales figures: <<Adevărul>> falls on the last place in the quality top", Adrian Halpert, ReporterVirtual.ro, March 4, 2013.

²⁴⁰ PwC Global Entertainment and Media Outlook Report, PWC.ro.

²⁴¹ "BRAT: The newspapers' circulation drops by approximately 35-40%. Advertising budgets have dropped by 80-85%, since 2008", Revista22.ro, apud Mediafax, March 27, 2013.

²⁴² Distribution figures, Romanian Office for Circulation Audit, BRAT.ro

²⁴³ "The latest print sales figures: <<Adevărul>> falls on the last place in the quality top", Adrian Halpert, ReporterVirtual.ro, March 4, 2013.

²⁴⁴ "Local press cuts in front of the central press. The real threats of the country side newspapers", Raluca Abrihan, DailyBusiness.ro, December 3, 2012.

²⁴⁵ MediaFactBook.ro, 2012.

²⁴⁶ "What are we: the future or the past?", Cătălin Tolontan, Tolo.ro, September 13, 2012.

²⁴⁷ "Election year 2012 comes with a permanent launching of television stations", Andreea Ștefan, DailyBusiness.ro, November 29, 2011.

²⁴⁸ "The war of political party televisions. Who will lie more convincingly in 2012?", Ticu Ciubotaru, Cristian Hagi, Claudiu Pădurean, Andreea Pocotilă, Românialiberă.ro, December 15, 2011.

²⁴⁹ Ibidem.

²⁵⁰ "The televisions' madness", Emil Aluș, Românialiberă.ro, February 13, 2013.

Audiovisual in May 2012 indicated that the Romanian audiovisual field contained 750 television stations, 633 radio stations and 3,727 cable distribution networks²⁵¹. Also, according to the information published by the NCA in March 2013, over the previous year, the "Romanian audiovisual landscape diversified as a result of the awarding of over 400 audiovisual broadcasting licenses for television stations and over 700 audiovisual broadcasting licenses for radio stations, broadcasting by land radio-electrical means or by satellite"²⁵².

Television has remained, in 2012 as well, the Romanians' main source of information. According to the Eurobarometer published in autumn, 97% of Romanians stated that they watched the information broadcast on TV at least once a week. "In significant contrast, this is followed by the press/newspapers (51%), the radio (64%), the internet (accessed by 43% of respondents) and the social networks (used by 28% of Romanians). Any consulting and information with respect to national political issues is mainly performed via television (94%), followed by the press/newspapers (46%), radio (44%) and the internet (23%). The same hierarchical trend is maintained in the case of gathering information with respect to the European political issues: television (88%), press/newspapers (43%), radio (41%) and the internet (22%)", the Eurobarometer specifies (this data was collected between November 2 and 18, 2012, from a representative national sample of 1,014 people of over 15 years old, with an error margin of +/-3.08%)²⁵³.

According to the PwC Global Entertainment and Media Outlook Report, Romania is on the third place in the top of the most dynamic media and entertainment markets in Central and Eastern Europe, after Turkey and Russia²⁵⁴.

The Pro and Intact groups dominated (three quarters of) the advertising market in 2012, according to the estimates of PaginaDeMedia.ro. Thus, the televisions pertaining to the Pro group attracted advertising in the amount of EUR 100-105 million and the Antena televisions broadcast advertising of EUR 50-55 million, on a market of approximately EUR 200 million²⁵⁵.

Another memorable phenomenon that occurred during 2012 was the escalation of certain conflicts between television stations and certain cable operators, which resulted in the exclusion of certain television stations from the schedules of the cable operators and in litigation cases between companies.

The RCS&RDS cable operator was faced with new accusations of abuse of a dominant position in November 2012, after taking the Discovery channels (Discovery Channel, Discovery World, TLC, Animal Planet) out of the analogue and digital cable offer, shortly after the launching of its own channels, Digi World and Digi Life²⁵⁶ and shortly after announcing the launching of Digi Animal World. The Discovery representatives declared that the decision not to extend the retransmission agreement (which was to expire on November 30) was made unilaterally and they went to the NCA. "RCS rejected all of our commercial offers, so that a new agreement could not be reached. We should specify that we did not request, at any point in our negotiations, an increase in the tariffs for the distribution of our channels"²⁵⁷, the Discovery representatives declared.

In its turn, the National Council of the Audiovisual notified the Competition Council and the Consumers' Protection Authority (ANPC) with respect to the litigation between the two companies²⁵⁸, but did not wait for a response from these authorities and in January 2013, approved the withdrawal of the Discovery channels from the schedule of RCS&RDS (a single member of the NCA opposed this decision - Valentin Jucan).

The measuring of ratings, challenged by TVR and Realitatea TV

In January 2012, the public television (TVR) notified the existence of "discrepancies" between the measuring of ratings by Kantar Media, the company that had been providing services to the Romanian Association for the Measuring of Ratings (ARMA) since 2012 and the data previously provided by GfK România.

In February 2013, Realitatea TV complained about the distortion of the ratings figures in favor of certain television channels²⁵⁹ and, in March, sued Kantar Media for "financial prejudices and the television station's loss of credibility"²⁶⁰.

VI.3. The radio market

In the spring of 2012, according to the Radio Ratings Study conducted by IMAS - Marketing and Surveys and GfK Romania, Kiss FM was the radio station most listened to on an urban level, while Radio Zu climbed to the second position, outrunning Radio România Actualități and Europa FM²⁶¹. Conducted on a number of 9,458 people, the study

²⁵¹ "Statistics: How many television and radio stations are in Romania", Mădălina Cerban, Mediafax.ro, May 24, 2012.

²⁵² "Reports regarding the audiovisual license and retransmission authorizations", the National Council of the Audiovisual, CNA.ro, March 12, 2013.

²⁵³ Standard 78 Eurobarometer, Daniela Ionescu, researcher for Opinion and Market Studies, The public opinion in the European Union, Romania National Report, Autumn 2012, page 13.

²⁵⁴ PwC Global Entertainment and Media Outlook Report, PWC.ro, July 17, 2012.

²⁵⁵ "Analysis. How much money the television stations collected last year. Pro TV and Antena, three quarters of the TV market", Petrișor Obae, PaginaDeMedia.ro, April 18, 2013.

²⁵⁶ "RCS&RDS is at war with Discovery. The television station was withdrawn from the Digi satellite platform", Mădălina Cerban, Mediafax.ro, November 23, 2012.

²⁵⁷ "New cable conflict. Discovery Channel can no longer be watched on the RCD Digi platform", Petrișor Obae, PaginaDeMedia.ro, November 23, 2012.

²⁵⁸ "The RCS&RDS- Discovery war: The NCS notifies the Competition Council and the Consumers' Protection Authority", Agenda.ro, December 4, 2012.

²⁵⁹ "The scandal regarding the measuring of ratings is far from over", Anca Simionescu, EvZ.ro, February 28, 2013.

²⁶⁰ "The ratings scandal, on the NCA's table. Realitatea TV journalists are aggrieved", Realitatea.net, March 6, 2013.

²⁶¹ "Spring radio ratings: Kiss Fm - the radio station most listened to at an urban level. Radio Zu remains the leader in Bucharest, climbs to the second

indicated that the Kiss FM station had 2,861,000 listeners, România Actualitati - 1,970,700, Radio Zu - 1,833,000, Pro FM - 1,737,300, Europa FM - 1,535,000, Antena Satelor - 776,600, Magic FM - 740,000, Radio 21- 685,000, Național FM - 300,000, Rock FM - 163,300.

The financial issues of the press also reflected upon radio stations. Thus, at the end of September, Radio Guerrilla, Realitatea FM and Gold FM had their broadcast interrupted for a few hours, because Realitatea Media, the trust that holds said radio stations' licenses, is insolvent and failed to pay the rent, utilities and electricity bills for said radio stations' broadcasting station²⁶².

VI.4. The online market

In 2012, online advertising continued to grow, climbing on the second position after the TV, and the companies spent approximately EUR 25 million for advertising on this segment²⁶³. This amount does not include Google, with respect to which specialists say that it makes over EUR 15 million a year from GoogleAds in Romania²⁶⁴.

Also, in 2011, the blogosphere won approximately EUR 619,750 from companies, according to a study conducted by Refresh.ro and Vola.ro. Bloggers win money especially from advertorials and affiliated marketing. Page branding, RSS feed advertising and video advertising pay less²⁶⁵. According to Zelist.ro, 12,000 blogs are active in Romania and, when asked "What subjects had the most significant impact in the Romanian blogosphere?", 45% said that politics occupied the first place, closely followed by new-media, entertainment, general news, society news, technology and personal issues²⁶⁶. The study was conducted between February 1 and March 25, 2012 and 712 bloggers participated in it.

VI.5. Advertising

At the end of 2012 (October), the Competition Council launched an inquiry on the advertising market, as a result of certain notifications, in order to investigate whether certain companies had formed an association in view of eliminating the competition from the tenders for the awarding of the Romanian clients' advertising accounts²⁶⁷. Bogdan Chirițoiu, president of the Competition Council, declared that 13 media company headquarters had been searched and that the inquiry could take up to two years²⁶⁸. The unexpected controls of the Competition Council²⁶⁹ also targeted all media agencies that, in October, set up the "Media club" - an organization which claimed that it intended to develop an ethics code and a guide for the organization of a tender²⁷⁰. The founders of the Media Club are: Brand Programming Network, Initiative Media, MEC România, MediaCom, Mindshare, Optimedia, Starcom MediaVest Group, United Media, Universal McCann, Zenith România²⁷¹.

CONCLUSIONS:

- The economic crisis continued to have a strong impact, especially on the print press - many publications were shut down or moved on the internet, hundreds of employees were made redundant or chose to change their workplace, to change their profession, the tensions caused by the lack of financing from advertising increased. According to BRAT, print advertising dropped by up to 85% between 2008 and 2013.
- Three quarters of the advertising market for televisions were monopolized by the Pro and Intact groups.
- Three of the most important national daily newspapers delayed the payment of salaries for several months.
- The financial difficulties forced the creditors to demand several television stations' insolvency. Mass redundancies of the employees followed, as well as abuses committed by the owners against their own employees.
- The consolidation of the television stations' position as sources of information for the population could be a troubling phenomenon, if we take into account the profile of the audiovisual market owner, who uses the press in order to satisfy his/her own political/economic interests. The election year fueled the launching of unsustainable television stations, intended to operate in order to make political propaganda.
- The Romanian audiovisual includes over 700 television stations and over 600 radio stations. The credibility and the independence of most of them are affected by the lack of financial transparency and the political affiliation of their owners or main financiers.

position, at an urban level", V.O., May 21, 2012

²⁶² "Radio Guerrilla, Realitatea FM and Gold FM had their broadcast interrupted for the failure to pay", Petrișor Obae, PaginadeMedia.ro, September 29, 2012

²⁶³ "The online advertising market at the end of 2012", DoruPanaitescu.ro, December 15, 2012

²⁶⁴ Ibidem.

²⁶⁵ "How much money do the Romanians earn from blogging", Diana State, Adevărul.ro, May 2, 2012

²⁶⁶ Ibidem

²⁶⁷ "The Competition Council launched an inquiry into the advertising market. See how many companies are targeted and how long the investigation shall last", Ema Ene, Româniliberă.ro, October 23, 2012.

²⁶⁸ Ibidem.

²⁶⁹ "The agencies in the Media Club, controlled by the Competition Council", Iulia Bunea, PaginaDeMedia.ro, October 22, 2012.

²⁷⁰ "The agencies formed the Media Club. Plan: an ethics code and a guide for tenders", Iulia Bunea, PaginaDeMedia.ro, October 4, 2012.

²⁷¹ Ibidem.

- The conflict of interests caused by the fact that the cable or DTH distributors also became content providers led to a risky situation on the audiovisual market. Some distributors were accused of abuse of a dominant position and of blocking the public's access to the television stations competing with their own stations.

RECOMMENDATIONS FOR MEDIA OWNERS:

- Using the press as an instrument for obtaining political and/or economic influence may function on a short-term basis but, in the offing, this approach leads to the moral and financial bankruptcy of the press institutions and those who instrumentalize them. Respect for the public is the safest investment.
- Accountable press is a long-term benefit. Invest in the professionalization of the media employees and ensure an independent work environment for the journalists and editors!

RECOMMENDATIONS FOR JOURNALISTS AND EDITORS:

- Avoid professional risks, as they could render you permanently devoid of credibility in the conscience of the guild and of the public.
- Do not tolerate the owners' abuses, as they destroy the credibility of the media as a whole!

VII. WORK CONFLICTS

The worsening of the economic crisis resulted in an even further weakening of the journalist's status in relationship with the owner and, therefore, many journalists became even more vulnerable to compromises, exploitation and the breaching of their employment rights.

Under such circumstances of financial and moral tension, an increasing number of media employees decided to change their work places, to choose another profession, or to publicly disclose the abuses to which they had been subjected, to sue their employers or go on strikes.

"Dictatorial work environment" at AGERPRES

Just like in the previous year, in 2012, unions continued to accuse the interim management of the National Media Agency AGERPRES of breaching the employees' rights, lack of transparency and unjustified expenditures from public money.

According to the Romanian Journalists' Federation - MediaSind, over 140 employees of AGERPRES sued the institution and filed criminal complaints for:

- "the manner in which the management led by Ioan Roșca, interim general manager of ANP AGERPRES, used the public money,
- the editorial pressures exerted upon certain journalists of the agency,
- the harassment of the union members and of the persons who failed to obey discretionary orders from the general manager,
- the sabotaging of social dialogue within the agency,
- the enforcement of an internal Regulation that turns the employees into slaves,
- the restriction of the union organization representatives' access into the disciplinary committee,
- the removal of the union's display panel, the destruction of the organization's letters of communication to its members,
- the prevention of transmission of information to the employees' e-mail addresses,
- the breaching of the Media Collective Employment Contract, of the Collective Employment Contract at the level of ANP AGERPRES,
- the promotion of a conflicting environment between the institution's employees, the defamation of those who had the courage to oppose an arbitrary decision,
- interference in the union's activity, by means of preventing the union's right to protect its members"²⁷².

²⁷² "Report-letter on AGERPRES" drawn up by the Executive Committee of the Romanian Journalists' Federation - MediaSind, addressed to the Romanian Parliament, the members of the Parliament's Commission for Culture, Arts and Means of Information, to Mrs. Raluca Turcan - President, to Mr. Sergiu Nicolaescu - Vice-President, No. 68/ June 5, 2012.

Journalist Florentin Deac vs Cuvântul Liber

After two years of lawsuits with his former employers at the Cuvântul Liber newspaper, in September 2012, the Târgu-Mureș journalist Florentin Deac won the second lawsuit filed after being fired in July 2010²⁷³.

We must reiterate that Florentin Deac had been working for Cuvântul Liber for 13 years when he was fired on "financial grounds", according to the publication's editor-in-chief, Lazăr Ladariu. As we specified in the previous FreeEx reports, journalist Florentin Deac appealed the decision of his employment termination in court and demanded to also be granted rights that he had not benefited from. He complained about the fact that he had not been paid his wages in accordance with his training, the fact that he did not receive the three due salaries when he left, the fact that he was not awarded the 25% loyalty payment, despite having been forced to sign a contract to that effect and the fact that he was not paid seniority payment.

In March 2011, the court forced "Cuvântul Liber" to award journalist Florentin Deac a payment corresponding to three years for his higher education, seniority payment and loyalty payment. In September 2012, the journalist won a second lawsuit, whereby the court forced his former employers to pay the three severance payments owed to him at the time of his layoff.

The Adevărul journalists, summoned to waive part of their rights

In November 2012, shortly after Adevărul Holding was taken over by businessman Cristian Burci from Dinu Patriciu, the editors of the Adevărul newspapers were forced to choose between the termination of their employment contract and a 15% drop of their salaries, corroborated with shifting to copyright contracts. At the same time, the journalists were forced to sign annexes to the contract, whereby they undertook to receive the payment of their outstanding salaries in installments and to pay EUR 8,000 in the event that they disclosed any information regarding the company²⁷⁴.

Journalists Mariana Bechir and Ioana Oancea, whose positions were terminated for refusing to sign the documents imposed by the management of Adevărul Holding, stated that they shall resort to the help of the Territorial Labor Inspectorate and sue the trust²⁷⁵.

Strike at România Liberă

At the end of February 2013, the România liberă journalists (a publication owned by businessman Dan Adamescu) went on strike, complaining about the failure to receive their wages for the previous three months. "As a result of the administrative management of the România liberă daily's failure to comply with its financial obligations towards the newsroom, the journalists from the print and online departments decided to cease their activity, for an indefinite period, starting today, February 28, 2:00 PM"²⁷⁶ - the România liberă strikers announced on Facebook. The journalists had previously organized a protest in November 2012, when they sent the newspaper's owner an open letter in which they were criticizing the România liberă management and protested against the delay in the payment of their salaries for September and October²⁷⁷. After almost four hours, the February 2013 strike ended, as a result of a discussion with the publication's administrative management, who promised to pay the outstanding salaries over the immediately following period.

"Anonymous" protest of the Jurnalul Național editors

In April 2013, several editors of Jurnalul Național, a newspaper owned by the Intact trust - belonging to the family of politician and businessman Dan Voiculescu, launched an anonymous online protest on the Protest-Jurnalul.Blogspot.ro blog, because certain clauses of the contract concluded with the Intact trust prohibited them from nominally committing to such a proceeding. "We chose this form of anonymous protest because of the contractual clauses imposed by the management of Intact Publishing SRL, which prohibit any kind of protest, any disclosure of the contractual clauses and any public disclosure of information, which could infringe upon the company's interests. The sanction for the breach of these clauses is the immediate termination of the contract and a <<fine>> of EUR 5,000" - the Jurnalul Național editors wrote on the protest blog.

At the same time, they publicly announced, in the online environment, that their salary rights had been "purposely" breached and published the abusive clauses from their copyright contracts, on the protest blog that they had set up. According to the Jurnalul Național employees, in November 2012, they had been forced to choose between a 25% drop of their salaries and shifting to collaboration contracts, under which they were surrendering their copyrights for 50

²⁷³ "The story of journalist Florentin Deac, fired after 13 years in the employment of <<Cuvântul Liber>>", FreeEx, Blog.ActiveWatch.ro, January 31, 2011.

²⁷⁴ "Update. Journalists, blackmailed at Burci's <<Adevărul>>. Fees unpaid from 2011. Adevărul.ro is taking a nose-dive", ReporterVirtual.ro, November 28, 2012.

²⁷⁵ Ibidem.

²⁷⁶ "Strike at România liberă, starting from 2:00 PM. The protest ended. The newspaper to be published tomorrow", Petrișor Obae, PaginaDeMedia.ro, February 28, 2013.

²⁷⁷ "Crisis. The România liberă employees to owner Adamescu: <<the situation has gotten out of hand>>", Petrișor Obae, PaginaDeMedia.ro, November 29, 2012.

years and undertaking to pay their state dues themselves²⁷⁸. Most employees chose the second option, but this compromise only facilitated long salary delays (four months²⁷⁹) and reorganizations (without severance payments). As a result, in April 2013, the protesters demanded the payment of their outstanding salaries (for the previous four months) and the renegotiation of their contractual conditions, complaining that "Intact Media Group is covering part of its debts and limiting the damages registered with the companies that held the Jurnalul Național brand at the expense of the publication's employees and collaborators"²⁸⁰. The day after the protest began, manager Daniel Matiescu wrote an e-mail to the employees of Jurnalul Național, telling them that a new series of reorganizations followed and that "solutions to pay the fees had been identified", specifying that the payment of the outstanding salaries would be made in installments²⁸¹.

Five days after setting up the protest blog, the editors wrote that the public exposure of the abuses to which they were subjected and the fact that the messages written on the blog were taken over by the rest of the press pressured the newspaper's management into identifying solutions for making the payment of the salaries to the journalists. Also, the blog's authors declared that they would make the online platform created by them available to all journalists who were willing to expose the irregularities occurring in the newsrooms in which they worked.

"We thank everyone who is interested in our fate. Without this interest, the management of Jurnalul Național would not have cared about our protest and would not have undertaken the payment in installments of the obligations that have been outstanding for over four months. We still do not have a payment schedule, but it is clear that, until the impending holidays, we should at least be paid the fees owed for December, so that at least a scintilla of credibility with respect to the management's intentions should be maintained. We would celebrate the Easter with the money <<for Christmas and the New Year>>. We maintain our optimism in this respect, even though the news coming from the accounting department has not been, as yet, very hopeful"²⁸² - the protesting editors wrote.

On April 18 aprilie, 15 more journalists were announced that they would be made redundant²⁸³.

The Unique Collective Employment Contract at the Media Branch Level has been extended

In February 2013, the Romanian Journalists' Federation - MediaSind announced that the judicial effects of the Unique Collective Employment Contract at the Media Branch Level and of the Journalist's Deontological Code have been extended by the Ministry of Labor, the Family, Social Protection and the Elderly, up to January 14, 2014. "Thus, this important self-regulation document, which contains both rights and professional clauses, such as the journalist's conscience clause, can continue to guarantee freedom of speech"²⁸⁴ - specified a press release sent by MediaSind.

CONCLUSIONS:

- In the context of the economic crisis' prolongation, many employers exerted pressures in view of replacing employment contracts with copyright contracts and tried to persuade the journalists to waive their rights.
- In many cases, the copyright contracts are used in order to blackmail the journalists and to elude the legal provisions regarding the journalists' rights.
- Most of the journalists who appeal their employers' abusive decisions in court, win.

RECOMMENDATIONS FOR JOURNALISTS:

- Always be informed with respect to your rights and do not accept any clauses that contradict the Unique Collective Employment Contract at the Media Branch Level (CCM), because they are illegal. The CCM also includes the conscience clause - an instrument of protection against the owners' interferences.
- When you are faced with a work litigation case, resort to the assistance of an attorney, a journalists' union or a media NGO.

²⁷⁸ "Guide for turning journalists into slaves", Tiberiu Lovin, ReporterVirtual.ro, November 21, 2012.

²⁷⁹ "Protest of the Jurnalul Național editors", Protest-Jurnalul.blogspot.ro, April 10, 2013.

²⁸⁰ Ibidem.

²⁸¹ "Marius Tucă's strategy and Matiescu's promises", Protest-Jurnalul.blogspot.ro, April 11, 2013.

²⁸² "An invitation to our colleagues", Protest-Jurnalul.blogspot.ro, April 15, 2013.

²⁸³ Redundancies at Jurnalul Național. 15 journalists have been notified, www.paginademedi.ro, April 18, 2013 | Iulia Bunea, <http://www.paginademedi.ro/2013/04/concedieri-la-jurnalul-national-15-jurnalisti-au-fost-notificati/>

²⁸⁴ "The Media Collective Employment Contract and the Journalist's Deontological Code shall remain in force until January 14, 2014!", MediaSind.ro, February 5, 2013.

VII. ETHICS

"In our newsrooms, 2013 sanctions the disappearance of the much desired frontier between journalism and business, between the editorial part and <<sales>>, between illusions and cynicism. The attempt to separate press work from the owners' interests only survived for a few years, after the replacement of the SRS - CTP - Nistorescu & co guard. In the media groups, no stone has been left unturned, there is no autonomy left and over the next months, an implosion is going to occur. The new guard is in office and it has the same verified model: one man, the Willing Performer, controls both the business operations and the editorial content. His bosses are not press-related and do not appear in the press." (Journalist Mihnea Măruță, former editor-in-chief for Adevărul, wrote on Facebook, shortly after resigning).

The pursuit of the sensational and the seeking of humiliating, ridiculous or tragic situations in certain persons' lives have become the "premium products" of commercial televisions and of the tabloid press. The death of certain VIPs²⁸⁵ or the intimate lives of certain celebrities²⁸⁶ have been turned into mediatic shows, with contempt for human dignity and private life. It appears that it is only the threat of lawsuits that manages to temper the tabloids' tendencies. After Andreea Marin publicly warned that she would turn to the courts of law in order to protect her private life, the Libertatea tabloid wrote that *"it agrees to respect the right to private life of spouses Andreea Marin and Ștefan Bănică jr, who, at this point, are going through a divorce. For this reason, Libertatea shall offer information on this subject only if it serves the reader's public interest, as applicable to the aforementioned article"*²⁸⁷.

More seriously still, when reality fails to offer situations that are "juicy" enough for the editorial agenda, the authors stage such situations themselves, making up news²⁸⁸ or events which they present to the public as authentic. The case of a young lady who was making "confessions" that were invented by the TV producers²⁸⁹ forced the NCA to initiate the amendment of the Audiovisual Regulation Code, for the purpose of forcing the television to announce the public when broadcasting staged/scenes during reality-type shows.

The nationalist rhetorics aggressively returned at the beginning of 2013. Themes such as the "Hungarian danger" or the "Roma people smearing Romania's image abroad" have been revisited. On January 29, 2013, the Antena 3 television station broadcast the show *Sinteza zilei* ("The day's brief"), the theme of which was the intense situation in Ținutul Secuiesc ("The Szekler Land"), where the majority population is of Szekler ethnicity. Compere Mihai Gâdea presented the information according to which, on the official website of the Covasna County Council, everything was written in Hungarian and no Romanian version existed. ActiveWatch then proved that the television station had faked the image of the County Council's website, which also had a Romanian version page, and further notified the NCA²⁹⁰.

Sexual minorities were, in their turn, the subject of journalistic products created in total disregard of professional principles. At the beginning of January 2013, the ProSport daily published series-type investigation into the "lesbianism cases" in handball. Most of the news on this subject flagrantly breach the right to a private life and dignity and insinuate the existence of a link between sexual orientation and the inclination towards committing sexual abuse²⁹¹. The journalists' wordings are eloquent: *"Lesbianism in handball", "Alina Dobrin, accused that she did not even spare her son at training camp", "accusations of homosexuality", "With only 1,500 entitled players, Romanian handball is a small, closed space, with very little chances of gene replenishment", "hidden scenes", "shocking details", "the mother in law caught the two of them in the act", "How can one escape from the camp?"*²⁹².

The public television organized a biased debate on the pedagogical activities on the subject of the sexual minorities in a Bucharest high school²⁹³. The debate was unbalanced, because of the moderator's attitude and the absence from the set of the teacher who organized said pedagogical activities.

A journalist's corrupt connections with the political environment

Bogdan Chirieac, one of the most visible TV commentators, was accused of influence peddling in favor of certain multinational companies, from which he collected money, which he then transferred to various politicians²⁹⁴.

The accusation was made by broker Cristian Sima, former president of the derivatives stock exchange Sibex

²⁸⁵ "Four television stations fined in the Nicolaescu case, in the first meeting of the NCA with its new membership. The chosen president of the new NCA, Laura Georgescu: Let us be partners with the televisions, for the public interest", C.I., HotNews.ro, January 10, 2013.

²⁸⁶ "Andreea Marin, close to an accident. <<The reporters' aggressivity has crossed any line >>. The message posted by the celebrity on Facebook", D.D., Antena3ro, January 21, 2013.,

²⁸⁷ "The official salon of Andreei Marin, paid for by an anti-dope NGO | She was helped by a non-governmental organization to protect little Violeta from the paparazzi's eyes", Elena Matei, Libertatea.ro, January 21, 2013.

²⁸⁸ "<<State worker Mirela>> strikes again. <<Actors>> and March trinkets, on Digi 24. Exclusive interview with the <<actor>>", Petrișor Obae, PaginaDeMedia.ro, February 26, 2013.

²⁸⁹ "Ioana Tufaru's explanations for her appearance on Acces Direct: It was a part. It makes me feel like an actress. Antena 1, fined 20,000 Lei", Iulia Bunea, PaginaDeMedia.ro, February 12, 2013.

²⁹⁰ Notification to the National Council of the Audiovisual - The Sinteza Zilei show (Antena3) of January 29, 2013, ActiveWatch.

²⁹¹ "Appeal to the journalists. Sexual orientation is not a subject of public interest", ActiveWatch - Media Monitoring Agency, ActiveWatch.ro, January 11, 2013.

²⁹² "ActiveWatch's answers to the questions asked by ProSport", ActiveWatch.ro, January 17, 2013.

²⁹³ "Gay Pride in a public school. Lessons in tolerance or in abuse?", TVRNews.ro, February 8, 2013.

²⁹⁴ "The fourth letter by Cristian Sima: CTP, the Potemkin battle ship of Romanian press, came to Hotnews to offer his services", Adina Vlad, Adevărul.ro, October 15, 2012.

Sibiu. According to Sima, Chiriac had been Sima's partner in WBS Holding between 1998 and 2001.

The RISE Project journalists²⁹⁵ investigated these accusations and proved the association in WBS Holding of Thomas Lundin, former representative of the Ericsson company in Romania. Lundin is currently in litigation with Ericsson in the Swedish courts, as the company accused him of embezzling funds in the amount of EUR 7 million. Lundin claims that said money was paid to certain Romanian politicians in order for them to facilitate contracts for Ericsson²⁹⁶. Chiriac sued Sima for the aforementioned claims.

Bogdan Chiriac was one of the most frequent guests on TV in 2012, on the second place after Mugur Ciuvică, president of the Political Investigation Group association, according to a MediaTrust România poll of September 2012²⁹⁷. The television station that called Chiriac most frequently in its shows was Antena 3. In 2009, Bogdan Chiriac was involved in a blackmail scandal, when the stenographs of a discussion between him and Sorin Roșca Stănescu, published by the Curentul newspaper, revealed that the two of them were blackmailing the president of the National Integrity Agency. The Romanian Press Club and the Romanian Journalists' Association sanctioned Chiriac, demanding media institutions to stop presenting him as a journalist.

Journalists condemned or prosecuted for blackmail

At the beginning of 2013, two journalists were sentenced to prison with reprieve for acts of blackmail, while a third journalist was prosecuted.

In January, the heads of certain Iași publications, Florin Asimionesei and Alin Tocan, were sentenced to three and two years in prison with reprieve, respectively, for blackmail, after being accused that, between 2001 and 2004, they demanded advertising funds from several politicians and businessmen. Alin Tocan was the editor-in-chief of the Ziuă de Iași newspaper and Florin Asimionesei is the owner of the Bună ziuă, Iași publication²⁹⁸.

The PRO TV correspondent in Baia Mare, Raul Kreiter, was sued by the prosecutors of the Public Prosecutor's office affiliated with the baia Mare Court of law for committing the blackmail offence. According to the charge, in September 2011, Raul Kreiter obtained a compromising audio recording regarding the intimate life of a professor from the Nord University center, whom he threatened with the launching of a journalistic investigation. The journalist claimed and received amounts of money from the aggrieved party²⁹⁹.

The press is leading an "anti-CSM" campaign

At the beginning of 2013, the Antena3 news television started a new campaign against certain magistrates, members of Superior Council of Magistracy (CSM), Oana Hăineală, Cristi Danileț and Alina Ghica. The campaign was launched in the context of the elections for the management of the Superior Council of Magistracy (pursuant to which Oana Hăineală became president and Alina Ghica vice-president) which took place at the beginning of January and caused a series of disputes within the justice system, as well as in the political environment, the stakes being the appointment of the Public Prosecution Office and the National Anti-corruption Directorate. The CSM offers its advisory opinion on the proposals of the Ministry of Justice for the management of the two institutions.

The CSM filed complaints with the National Council of the Audiovisual, with respect to seven editions of the Antena 3 shows, broadcast in January 2013. In February 2013, the TV station was sanctioned by the NCA for its lack of objective information, its failure to comply with the right to personal portrayal and for the fact that the accusations made during said shows were not supported by evidence³⁰⁰.

Journalists make newspapers for the election campaigns

The precarious economic conditions in the local press determined some journalists to offer their services in the election campaigns of certain candidates, for whom they printed campaign newspapers. The situation presented on the online platform paginademedi.ro³⁰¹ occurred in a county near Bucharest, where dozens of journalists worked at the campaign newspapers for the local elections in June 2012. The edition was paid 1,000 Lei and the interviewed journalist admitted that the practice "is not ethical" and that, if he had a decent salary, "he would not sell his profession like that"³⁰².

The Romanian journalists on the guild's problems

At the end of 2012, the Faculty of Journalism and Communication Sciences launched the "Accountability and transparency in the Romanian press" research³⁰³. The research was conducted in 2011, on a sample of 100 journalists

²⁹⁵ <http://www.riseproject.ro/despre-noi/>

²⁹⁶ "The former head of Ericsson România: I paid politicians", riseproject.ro, November 6, 2012.

²⁹⁷ "The subscribers of the news televisions: Mugur Ciuvică, Marius Pieleanu and Bogdan Chiriac", Iulia Bunea, PaginaDeMedia.ro, October 17, 2012.

²⁹⁸ "Two Iași journalists, sentenced to prison with reprieve for blackmail; the aggrieved parties included Relu Fenechiu", V.M., HotNews.ro, January 3, 2013.

²⁹⁹ "Baia Mare journalist, sued for blackmail", Ziarul de Maramureș, March 1, 2013.

³⁰⁰ "Antena 3, fined 15,000 Lei for mediatic lynching of certain magistrates", Carmen Maria Andronache, PaginaDeMedia.ro, February 28, 2013.

³⁰¹ "EXCLUSIV. The incredible disclosures of a local journalist and occasional mercenary", Carmen Maria Andronache, PaginaDeMedia.ro, April 13, 2012.

³⁰² Ibidem.

³⁰³ Accountability and transparency in the Romanian press, MediaAct, www.fjsc.ro

and press managers in Romania and intended to analyze the development and the impact of the traditional systems for ensuring the media's social accountability.

The results of the study show that the interviewed journalists identified the economic pressures as the main problem of the journalism in Romania. Thus, 68% of them consider that the economic pressures cause prejudice to the quality of the journalistic act, while governmental pressures are indicated by 52% of the respondents. The other types of problems identified are: the failure to assume any professional standards (57%), the poor professional training (60%) and the small salaries (60%).

Almost 80% consider that the editorial policy has the highest impact on the journalists' behaviour and all the other response options were considered to have an insignificant impact (ethical codes, criticism from the public or the fellow journalists etc).

As far as transparency is concerned, 77% of the respondents consider that the media institutions should publish a deontological code; also 77% believe that they should publicly disclose their shareholding structure and the political and economic interests of the same.

CONCLUSIONS:

- The financial difficulties have amplified the editorial compromises made by the newsrooms.
- The economic pressures are considered by the journalists to be the main problem for the Romanian media, according to the "Accountability and transparency in the Romanian press" research, conducted by the Faculty of Journalism and Communication Sciences (the Bucharest University).
- Blackmail committed by journalists or media outlets risks becoming a phenomenon.
- New disclosures have been made with respect to the corrupt relationships of certain media celebrities with the political environment.
- The media, and especially the televisions, have speculated on the death of certain celebrities and have turned their deaths into a mediatic show.
- New cases of invented news or staged reality-type shows have been registered.
- The nationalist and homophobic rhetorics have made an aggressive comeback in 2012 and 2013.

RECOMMENDATIONS FOR JOURNALISTS AND EDITORS:

- Publicly sanction unethical editorial practices.
- Debate, enact and publicly disclose an ethical code of the newsroom.
- Strictly delineate roles within the press companies. The journalist should not be a marketing agent.
- Carefully check the sources of your information.
- Inform the public with respect to relevant and verifiable facts.
- Do not turn any persons' dramas, tragedies or scandals into a mediatic show. Show respect for the dignity of the people in distress.
- Treats the subjects referring to minorities in an equidistant and accountable manner. Do not attribute singular incidents to an entire minority.

VIII. LEGISLATION

Copyrights

In 2012 certain initiatives appeared, to amend Law no. 8/1996 on copyright and connected rights. In 2012, an amendment initiative signed by a few PD-L deputies was registered for debate and enacted in the Senate. The submitted draft law faithfully reproduced the provisions of a draft which had been in discussion in 2010 at the Minister of Culture, had not been publicly debated and had remained suspended, after the first critical observations. The draft taken over by the three deputies was enacted in the Senate on September 24, being submitted for debate in the Chamber of Deputies. A few of this draft's provisions may have an impact upon the freedom of information and the freedom of speech. One of them refers to the "orphan creations", a concept which was missing from the old law. The Association for Technology and Internet (ApTI) and the Romanian Users' Rights Organization (ORDU) showed that, even though their insertion into the law is beneficial, the law should permit the free use of any creation for non-commercial purposes, and for the commercial use, one should pay some fixed considerations, set by ORDA, which should be transferred to a state institution that finances cultural projects (such as the Administration of the National Cultural Fund), not into the budget of the collective administration bodies, which only carry out actions for the benefit of their members, not for the general cultural benefit³⁰⁴. Another critique raised by the two organizations was the one referring to the "absurdly long period of the creations protected with a copyright - the author's life + 70 years thereafter"³⁰⁵. Thus, the draft provides that, if the author does not have any heirs, the copyright should be taken over by a collective administration body. Furthermore, the search of a computer found in a place for which a search warrant exists shall be a lot simpler, as it would no longer matter who the computer belongs to: "Whenever a search warrant authorization is issued in view of finding a misdemeanor committed by means of an IT system, it is presumed to have also been issued for the access into any IT system that can be found in the residence (article 145, paragraph 4)", ApTI and ORDU stated.

The journalists' access to public information in the justice process

The secrecy and the bad faith of the judicial authorities in relation to the journalists on the subject of the latter's access to the public information contained in the case files in the criminal prosecution or trial phase have clearly manifested through the new guide developed by the Superior Council of Magistracy in 2012.

In May 2012, one found out, from unofficial sources, about the intention of the Superior Council of Magistracy (CSM) to enact, without public consultation, a guide regarding the relationship between the Romanian judicial system and the media. The CSM considered that the public debate had been held, given that the draft had been published on the institution's website, with a one-day deadline for the debate³⁰⁶. Pursuant to the protest of a media organization group³⁰⁷ and to the criticism publicly launched by several journalists, the CSM organized a meeting with representatives of the media and of civil society and extended the term for the Guide's enactment with a few days, so that one could lay down (hastily) the observations of those who were interested in the content of this document. However, in the final version of the Guide, enacted on June 1, a few small amendments had been made to the initial draft guide, although amendment suggestions had come from several sources³⁰⁸.

Essentially, the new Guide³⁰⁹ details the duties of the spokespersons and the communication "structures" of the courts and of the CSM, it defines the rules regarding the access to case files (including those in the criminal prosecution stage) and to the sessions of the courts of law in the criminal trial cases and, separately, in the civil ones. Although the Guide does have the virtue of detailing the rules regarding the access to case files and court sessions, thus rendering the situations in which the access of the press is permitted more predictable and clearer, the document instates limitations that are excessive from the point of view of the right to be informed and does not respond to the requirements of access to information, as previously laid down by the media.

The Guide does not clarify at what point a journalist has access to the contents of a public prosecutor's charge:

³⁰⁴ "The amendments of the copyright law - APTI comments", ApTI.ro, September 25, 2010.

³⁰⁵ "ACTA is postponed, but the copyright law still becomes more strict", Bogdan Manolea, Legi-Internet.ro, February 24, 2012.

³⁰⁶ "CSM resumes the debate of the guide of relations between the judicial system and the media. CSM organized closed-circuit public debates, at Holland's cost", Blog.ActiveWatch.ro, May 22, 2012. According to the account of the FreeEx team members who were present at the CSM debates, "Magistrate Mircea Aron disapproved of the fact that certain colleagues of his notified the press, on the grounds that an idea launched in the public space ends up being debated arbitrarily and <<everyone touches it to his/her heart's content>>". According to the same source, Mona Pivniceru, CSM member, had declared that "the most liberal option was chosen".

³⁰⁷ See the protest - press release of ActiveWatch, the Romanian center for Investigative Journalism and the Center for Independent Journalist of May 21, 2012, which condemned the lack of transparency and consultation of the CSM management with respect to the new guide for the justice - media relationship. The signatory organizations called the journalists to protest at CSM, against the enactment of this guide without consulting with the media professionals. (www.activewatch.ro FreeEx/Reactions section).

³⁰⁸ ActiveWatch, the Center for Independent Journalism, the Romanian Center for Investigative Journalism and the Technology and Internet Association have submitted observations, most of which were not accepted.

³⁰⁹ Enacted by Resolution no. 482 of the CSM's Plenum of June 1, 2012. It can be accessed on the CSM's website (www.csm1909.ro) only in the Resolutions section, not in the Legislation section, which, on the date of publication of this Report, only included the old Guide, from 2006.

when it is being drawn up, when it is being endorsed by the hierarchically superior prosecutor, when it is assigned a registration number, when it leaves from the prosecutor to the court or when it has already been registered with the court. This ambiguity is all the more inappropriate in the context of a harsh competition on the Romanian media market.

One other problematic aspect is that the press' access to the data in the criminal case files only occurs after any personal data has been deleted. The principle should be that when the processing of personal data is performed exclusively for journalistic purposes and the data is closely related to the targeted person's capacity as a public person or to the public nature of the actions in which the person is involved, the processing of the data should benefit from a regime of exemption from the requirements of personal data processing, in accordance with law 677/2001³¹⁰. The list of case files exempt from access also includes some case files that could be of an overt public interest nature (see articles 27, 43 and 48 of the Guide). Furthermore, the supply of public interest information regarding the judicial activity could be restricted for vague reasons, such as: "the interest of morality" or of "public order" (article 36 of the Guide). It does not provide for any possibility of access to the electronic versions of the public prosecutors' charges or the motivations of the court decisions, even though such communication of the data would meet the press' need for rapid access to information, which information would further be communicated to the public in real time and it would also simplify the work of the individuals offering access to the case files.

In practice, the manner in which the journalists who were accredited in court have access to the information contained in the pending criminal case files (which, in principle, are public themselves) has not yet been clarified in the Romanian judicial system. When access is permitted, the journalists are forced to copy the contents of case file documents by hand, as no photocopying/scanning equipment is made available to them or, in the rare cases that it is, the price set by the court for such services is prohibitive. Therefore, the journalists are forced to resort to methods that make their job more difficult and, in some cases, this deprives the public of its right to be informed.

The inertia and the secrecy that still dominate the judicial system institutions prevent spokespersons from having an active attitude in the public debate of certain current matters or even certain case files. Therefore, the erroneous information published by journalists and, sometimes, even by the parties' attorneys, as a result of an error or of bad faith, remains uncontradicted by authorities in the public space and therefore is mistakenly etched into the public's conscience as being true, which results in the fact that the public may end up having inaccurate belief about a certain lawsuit. Such occurrences also lead, together with other problems of the judicial system, to a predominant climate of distrust of the public in the Romanian judicial system.

The civil and penal codes

The new Civil Code came into force on October 1, 2011³¹¹. We covered the chronology of the enactment of this legislative act and the provisions which had an impact upon the freedom of speech and the media freedom in our previous FreeEx reports. The new Civil Code was enacted, not pursuant to a parliamentary debate, but by means of the quasi-non-democratic procedure of binding the government. Thus, a text containing 2,664 articles was voted in bulk, in a hurry. As a result, it required rapid and numerous subsequent amendments. The result: one year after it came into force, we are already at the fourth version of the new Civil Code: version I - the initial one; version II - after its amendment by Law 71/2011; version III - after its amendment by Emergency Government Ordinance 79/2011; version IV - after its amendment by Law 60/2012.

The Code has already started producing effects, as several journalists and press institutions have been sanctioned for breaching certain persons' right to dignity, personal portrayal and private life. The sanctions varied from the payment of moral prejudice to the obligation to publish the decision and even the obligation to delete certain articles from the internet (see examples in the Lawsuit section of this report).

The new Penal Code (Law 286/2009) shall come into force on February 1, 2014 (according to article 246 of Law 187/2012 for the implementing of the new penal code). Just like the civil code, this was enacted by the quasi-non-democratic procedure of binding the government. It has already been amended by Law 27/2012 and Law 63/2012.

It bears the question: if it comes into force after five years, how does that justify the need to hurry up the enactment by binding the government in 2009? The question also applies to the new civil code.

The penal procedure code (Law 135/2010) was enacted by means of the regular procedure for fundamental laws, therefore not by binding the government. At the end of 2012, the draft of the implementing law, initiated by the Ministry of Justice, was registered with the Senate.

³¹⁰ The exemptions set forth in article 11, article 12 paragraph 3 and article 13 paragraph 6 of Law no. 677 of November 21, 2001 on the persons' protection with respect to the processing of personal data and the free distribution of such data are applied:

Art. 11. - The provisions of articles 5, 6, 7 and 10 do not apply in the event that the processing of data is performed exclusively for journalistic, literary or artistic purposes, if the processing refers to personal data which has been manifestly made public by the targeted person or is closely related to the targeted person's capacity as a public person or to the public nature of activities in which such person is involved.

Art. 12 (3). - The provisions of paragraph (2) shall not apply when the processing of data is performed exclusively for journalistic, literary or artistic purposes, if applying such provisions would disclose indications on the information sources.

Art. 13 (6). - The provisions of paragraph (2) shall not apply when the processing of data is performed exclusively for journalistic, literary or artistic purposes, if applying such provisions would disclose indications on the information sources.

³¹¹ As provided for by article 220, paragraph 1, of Law 71/2011 for the implementing of the new Civil Code (Law 287, published in the Official Gazette, Part I no. 511 of July 24, 2009).

The "Big Brother" law

After law 298/2008 (on the retention of data generated or processed by the providers of electronic communication services intended for the public or by the public communication networks, as well as for the amendment of Law no. 506/2004 on the processing of personal data and the protection of private life in the electronic communications sector)³¹² was declared unconstitutional in 2009, the European commission launched an infringement action against Romania. This action, launched by the Commission on June 16, 2011, represented a red flag with respect to the procrastination in implementing the provisions of Directive 2006/24/CE on the retention of data generated or processed during the activity of provision of electronic communications services intended for the public or by the public communications networks and for the amendment of Directive 2002/58/CE³¹³.

After not taking any step for three years, the Ministry of Communications and Information Society suddenly took "urgent" measures: it published, for consulting purposes, and it organized a public debate with respect to a new version of the draft law on the retention of data generated or processed by the providers of electronic communications public networks and the providers of electronic communications intended. Pursuant to this proceeding, in spite of negative clearances from the National Authority for Data Processing Supervision and the Parliamentary Commission for human rights, religions and minorities, the draft law was enacted in the plenum of the Chamber of Deputies (197 votes "for", 18 votes "against" and 13 abstentions - the opposition did not participate in the voting) and promulgated by the Romanian President³¹⁴. There was no actual discussion concerning the substance of the law and the civil society's organizations were not invited to the debates.

Horațiu Radu, government agent of Romania in the European Union's Court of Justice, stated that this law is an improved concept of Law 298/2008 (which had been rejected in 2009 on the grounds of unconstitutionality, precisely because it infringed upon the right to private life) and that it "does not breach any human right"³¹⁵.

At the NGOs' pressures, Gheorghe Iancu, Ombudsman, admitted that the law might be unconstitutional, but refused to commence an unconstitutionality procedure, invoking the lack of any political support.

The European Parliament votes ActiveWatch's proposal to prohibit the infiltration of intelligence service agents in newsrooms

The European Parliament's Committee for Civil Liberties, Justice and Home Affairs (LIBE Committee) enacted on February 21 ActiveWatch's proposal regarding the implementing of legislative measures prohibiting, at the level of the EU member states, the infiltration of undercover intelligence service agents into newsrooms. ActiveWatch's proposal was inserted on the agenda of the European Parliament on November 6, 2012, in the initiative report of National Liberal Party (MEP) (ALDE) Renate Weber on the EU Charter: Standard norms for media freedom in the EU.

In the memorandum addressed to the LIBE Committee on November 6, ActiveWatch claimed that the infiltration of agents in newsrooms jeopardizes freedom of speech, because:

- it threatens the sources' confidentiality;
- it prevents the gathering of information;
- it is an attempt at misinforming and manipulating the public;
- it affects the credibility of the press;
- it allows for the surveillance of newsrooms;
- it implements a climate of distrust in the newsrooms.

The amendment was taken over by deputy Renate Weber (ALDE) and supported by socialist Eurodeputy Ioan Enciu. The amendment was also enacted with a very tight vote, namely 28 votes "for" vs. 24 votes "against", being supported by the liberal, socialist and ecologist groups of the European Parliament, while the People's Party and Euro-skeptical Euro-parliamentaries opposed it. In fact, People's Party Euro-parliamentary Jean-Marian Marinescu, the shadow rapporteur, proposed that the amendment should be rejected. The Romanian Euro-parliamentaries who were members of the LIBE Committee and voted against the amendment included Monica Macovei.

The final vote with respect to the report was programmed for the plenary session of April 2013.

³¹² A law which sought approximation at the European Union level, by implementing in Romanian legislation European Directive 2006/24/CE, the legislation referring to the obligations of the providers of electronic communication services dedicated to the public with respect to the disclosure of certain illicit actions (and, implicitly, the use of the data for the investigation and the research of the felonious actions). See "the law on traffic data storage" in the 2009 *FreeEx Report*.

³¹³ The failure to comply with the deadline for the enactment of the decision would have cost Romania EUR 300,000 per each day of delay.

³¹⁴ On June 18, 2012, Law no. 82/2012 on the retention of data generated or processed by the providers of electronic communications public networks and the providers of electronic communications services intended for the public, as well as for the amendment and the supplementing of Law no. 506/2004 on the processing of personal data and the protection of private life in the electronic communications sector is published in the Romanian Official Gazette no.406/2012. See the detailed chronology of Law 82/2012 on www.apti.ro.

³¹⁵ Statement made during a press conference, with respect to the 2011 activity report of the EU's Legal Department, see: "The Big Brother Law on traffic data storage must rapidly come into force, otherwise Romania risks ending up before the European Court of Justice - a Romanian official" by Anne-Marie Blăjan, HotNews.ro, January 13, 2012.

CONCLUSIONS:

- In 2012 as well, the authorities and the politicians tried to control and to restrict freedom of speech and access to information of public interest, by means of non-democratic laws.
- Significant legislative initiatives are promoted without any prior public consultations. If, however, public consultations are organized, in many cases the authorities end up ignoring their conclusions.

RECOMMENDATIONS FOR JOURNALISTS AND EDITORS:

- Read the legislation that affects your professional activity (The penal and civil Codes, Law 544/2001, audiovisual legislation, the Unique Collective Employment Contract on a Media Branch Level, the copyright Law, etc.)
- Get involved in the monitoring of legislation and of the debates with the public and the authorities.
- Support the self-regulation initiatives, not the implementing of a media law, as the existing legislative framework is sufficient.

RECOMMENDATIONS FOR THE AUTHORITIES AND POLITICIANS:

- Publicly disclose the manner in which public money is being spent.
- Apply legislation in a unitary manner, in accordance with the ECHR case law and the international treaties to which Romania is a party.
- Organize public debates and comply with their conclusions.

Table of Abbreviations

USL - Social Liberal Union (Uniunea Social Liberală) formed by the PSD, PNL and PC

PNL - National Liberal Party (Partidul Național Liberal)

PSD - Social Democratic Party (Partidul Social Liberal)

PC - Conservative Party (Partidul Conservator)

ARD - Right Romania Alliance (Alianța România Dreaptă) formed by the Democratic Liberal Party, the National Peasant Christian-Democratic Party, the Civic Force and supported by the Centre-Right Civic Initiative

PDL/ PD-L - Democratic Liberal Party (Partidul Democrat Liberal)

PP-DD/ PPDD - People's Party - Dan Diaconescu (Partidul Poporului - Dan Diaconescu)

MCV - Mechanism for Cooperation and Verification

CSAT - Supreme Council of National Defense (Consiliul Suprem de Apărare a Țării)

NCA/CNA - National Audiovisual Council (Consiliul Național al Audiovizualului)

ANI - National Agency for Integrity (Agenția Națională de Integritate)

SRI - Romanian Intelligence Service (Serviciul Român de Informații)

SIE - Foreign Intelligence Service (Serviciul de Informații Externe)

CNSAS - National Council for the Study of the Former Securitate's Archives (Consiliul Național pentru Studierea Arhivelor Securității)

TVR - Romanian Public Television (Societatea Română de Televiziune - SRTv)

SRR - Romanian Public Radio (Societatea Română de Radio - SRR)

DIICOT - Direction for Investigation of Organized Crime and Terrorism (Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism)

CSM - Superior Council of Magistracy (Consiliul Superior al Magistraturii)

CNCD - National Council for the Prevention of Discrimination (Consiliul Național de Combatere a Discriminării)

RMGC - Roșia Montană Gold Corporation

FRF - Romanian Football Federation (Federația Română de Fotbal)

LPF - Professional Football League (Liga Profesionistă de Fotbal)

CFR - Romanian Railway Company

P u b l i s h e d i n 2 0 1 3

© ActiveWatch - **Media Monitoring Agency**

Member of the Reporters without Borders Network

98 Calea Plevnei, building 10C, 1st district, Bucharest; P.O. Box 2 Postal Office 67

021 313 40 47 021 637 37 67

office@activewatch.ro

www.activewatch.ro blog.activewatch.ro www.facebook.com/ActiveWatch