

FreeEx Program

Press Freedom in Romania

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FreeEx team

Liana Ganea
Răzvan Martin

Thanks to all those who contributed to the publishing of this report:

Mircea Toma
Ștefan Câdea

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Donors:
Open Society Institute
US Embassy in Bucharest

Media Monitoring Agency
Member of the Reporters without Borders Network
Adress: Calea Plevnei, nr. 98,
BL. 10C, sector 1, Bucuresti
Mailing: CP 2 OP 67
Tel/Fax: 021-313 40 47
E-mail: freeex@mma.ro
<http://www.mma.ro>; www.freeex.ro

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Methodology

FreeEx Department has been publishing annual report on press freedom since year 2000. Few changes have been brought along the years to our classifications regarding the various harrasments against the journalists. We divide the infringements of freedom of expression and press freedom as follows:

- **Agressions:** physical attacks against the journalists or the editorial offices (hitting, confiscating or destroying the recording equipment, tapes or cameras, sequestering the journalist, devastating the editorial office etc.);

- **Threats:** death threats, threats that put the physical integrity of the journalist, his family or his fortune at risk, using trivial language when addressing to the journalist;

- **Pressure of authorities:** pressure made on the journalists and media instutions by state institutions (investigations carried out by the Police, the Prosecutor's Office, the Financial Guard or other state institutions and aimed at intimidating the press, arresting or detaining journalists for investigations, pressures from investigators to disclose confidential sources, confiscating or copying computer data, confiscating or copying documents, intercepting communications, passing pieces of legislation that are unfavorable to the press or refusing to amend such pieces of legislations, etc.);

- **Political pressures:** pressures upon journalists and media institutions made by politicians or parties (systemic pressures made exclusively for protecting the political interests of some parties or politicians; including the use of state instutions in this respect).

- **Economic pressures:** pressures upon journalists and media institutions made by companies or businessmen (offering advertising contracts, annulling advertising contracts, asking for certain information not to be published or for certain journalists to be laid off in order to maintain the advertising contracts etc.)

- **Censorship:** forbidding the publication, confiscating all the copies, abusive suspension of the broadcasting licence.

- **Self-censorship:** journalists refraining from publishing public interest information as a follow-up to indirect pressures made by the owners or the editorial chiefs.

The cases described below are based on: direct investigations made by the FreeEx team (discussion and correspondence with the parties involved, the parties' lawyers, state institutions, etc.), information collected via the freeex network (www.groups.yahoo.com/freeex), articles in print media, radio and TV news, blogs and online publications. Our report is also based on official reports and reports issued by independent organizations.

1. GENERAL FRAMEWORK

The most important events in 2006 were:

- The visible increase of the attacks against freedom of expression from some major state institutions.
- The relatively high number of aggressions and threats against journalists, even if there are no serious cases.
- Important changes on the market at the ownership level; new actors emerged and the concentration phenomena enhanced.
- Attempts of political control upon the National Audiovisual Council.
- Lack of political will regarding the amendment of the public radio and television Law, that would have secured real independence for these institutions.
- The improvement of the Law for public information access and the public procurement Law, but also the attempt to limit the applicability of Law 544/2001 as the Parliament passed the Law on the reuse of public information.
- The change of the Penal Code decriminalizing insult and slander was passed by the Parliament, but it was blocked by the Constitutional Court in January 2007.
- The Ministry of Justice initiated a draft legislation enabling Prosecutors to access various computer system data without a judge warrant (Emergency Governmental Ordinance no. 131/2006).
- The media is perceived increasingly as an instrument used to attain political and economic advantages.
- The debate on media internal problems became more intense, also due to the media analysis blogs.
- The debate within professional organizations regarding the definition of some self-regulatory instruments and the related enforcement mechanisms continued.
- The management of a local media trust accused of blackmail practices was arrested.

1.1. Aggressions against press freedom

After year 2005 when the media got a rest, in 2006, once Romania's accession to EU became certain, therefore the external pressure decreased, **the number of attacks against press freedom increased again**. The novelty is the alarming number of state institutions or public authorities' representatives involved in these attacks. If such deeds are no longer a surprise at the local authorities level, the involvement of important institutions such as the General Prosecutor's Office or the Ministry of Foreign Affairs is a premiere.

Romanian authorities are responsible of very serious cases, such as journalists arrested and accused of holding classified documents, the search of their residences and editorial offices, prosecutors making pressures upon journalists for the latter to reveal their sources, the presence of secret services agents infiltrated in the editorial offices, Internet websites shut down by the providers upon Foreign Affairs Ministry request or the confiscation by the Police of the entire circulation of a newspaper.

Although it is difficult to associate these situations with systemic political pressures, as their majority didn't emerge from major politicians or political parties, one didn't detect any effort from authorities to condemn prosecutors' practices or to sanction the police officers who confiscated all the copies of Európai Idő newspaper. Also, no state institution or high official has ever condemned the conduct of Foreign Affairs Ministry in the case of the www.mae.haos.ro website.

The most serious case in 2006 was the one of the Vrancea journalists accused of holding and disseminating classified information. In February 2006, a CD with classified military information regarding the situation of Romanian troops in Afghanistan reached several newspapers. As the information was not of public interest, *România liberă* and *Ziua* newspaper put the national security above the journalistic interest and didn't publish the information on that respectiv CD. *Ziua* published an article warning state institutions that classified military information have reached the public area.

Despite this responsible journalistic conduct, the prosecutors started an investigation against the journalists involved. Marian Gârleanu, local correspondent of *România liberă* newspaper in Vrancea, was arrested on February 17 for two days, with an impressive display of force that also included special troops. On February 18, *Ziua* newspaper local correspondent Sebastian Oancea was also interogated, his house was searched, and his assets (including the personal computer) were confiscated. The two were accused of holding and disseminating classified military information and were asked to reveal how the CD came into their possession. Other journalists from local and central media were interogated as witnesses or potential accomplices, and *Ziua* newspaper editorial office was visited by prosecutors who copied part of the computers used by the journalists who investigated this case.

Previously, the Ministry of National Defense had declared that the people responsible for this information leak were identified as being members of the army and that criminal investigations had been started on them. Moreover, Defense Minister Teodor Atanasiu declared that the respective information didn't pose any threats to Romanian army's security since it was more than two years old.

One year after these events, the situation of the journalists accused with holding classified information is still unclear. These are officially accused for holding and disseminating classified information, but the prosecutors didn't put the case forward to the Court, thus the journalists are not able to defend themselves.¹

Another very serious case is when the Ministry of Foreign Affairs (MAE) asked the webhosting provided to block the www.mae.haos.ro website. The website had been designed by two journalists from *Ziua* daily who were criticizing MAE activity. On the front page of the website, that was an almost identical replicate of MAE official website (www.mae.ro) there was a warning stating "This website is a pamphlet". Not only has the web-hosting company shut down that respective website, but it has also offered MAE the personal data of its authors.

Police officers in Tg. Mureş in March confiscated from the points of sale all the copies of local Magyar language newspaper *Európai Idő*. The confiscated issue included an article reproducing and commenting a radical proclamation urging for the constitution of an "Independent Szekler Republic". Nicolae Căbulea, Head of Police Inspectorate Mureş declared that the newspapers had been confiscated in order to be examined as the content was violating national security and that they were to be subsequently returned to the press distributors. If the County Police Inspectorate wanted to examine the article published by *Európai Idő*, then it would have been enough to take one copy of the newspaper, instead of confiscating all the edition which represents a serious censorship situation.

Deputy Director of Defense Intelligence General Directorate (DGIA) Vasile Păun threatened journalist Doru Dragomir from *Ziua* daily on the phone, telling he will destroy him and that he would pay for the critics brought against him in the newspaper².

In July, at the climax of the debate regarding the disclosure of journalists and opinion makers who had collaborated with the former Political Police (*Securitatea*)³, *Curentul* daily published a correspondence from 2001 between the Director of SRI (Romanian Intelligence Service) at that moment, Radu Timofte and PRM Senator Damian Brudaşcu. According to these

¹ Details in the *Casuistry* chapter.

² Details in the *Casuistry* chapter.

³ The campaign Clean Voices was initiated by Civic Media Association; www.civicmedia.ro.

documents, Timofte admitted that SRI has infiltrated agents within various editorial offices. SRI Spokesperson Radu Berbaru confirmed the institution still has agents in media. Subsequently, the press published information stating that the other secret services are trying to recruit and infiltrate agents amongst journalists. Unfortunately, Romanian legislation doesn't forbid such practices. During the last year debates on the redefining of national security legislation, PNL asked for these to include specific provisions to forbid such practices. Few politicians and public personalities condemned this practice, as they were supporting the right of the secret services to infiltrate the press. However, there were disapproval reactions from the press and media community, as well as from some politicians. Shortly after, the Romanian Press Club introduced a stipulation in the Deontological Code recommending journalists not to work as employees or undercover agents of the secret services. Other organizations (Convention of Media Organizations, Romanian Center for Investigation Journalism) had already settled such cases in their own self-regulation documents.

1.2. Media market

The tendency of the previous years towards the consolidation of press groups that take over and launch increasingly many media institutions continued in 2006 as well. This ownership concentration phenomena is accompanied by the explosion of new media vehicles, especially the niche targeted ones, most of which address the entertainment segment.

The continuous expansion of the market didn't result in increased quality of the media products offered to the audience or a diversification of these products. The recipes seem to be the same: entertainment has priority in front of quality information.

Also, this revealed **the lack of balance between demand and supply on the labor market**, as the rapid evolution of the media market was not accompanied by a similar evolution of media professionals. This lack of balance reflects in the poor quality of media products on the market, with several exceptions. The labor force crisis was outlined by the migration of journalists from one media group to another; the climax was reached when all the editorial staff of a newspaper transferred to another⁴.

An other alarming issue is the **political, economic and legal status of the owners** of the four major press groups. Three of the most important businessmen in Romania own major media groups. Two of them have direct political interests (Dan Voiculescu⁵ and Dinu Patriciu). Consequently, the same Dinu Patriciu and S.O. Vântu face justice problems (S.O. Vântu sentenced to 2 years of prison for forgery and use of forgery, Dinu Patriciu on trial for various alleged economic crimes). There are situations when media institutions agenda is clearly influenced by the interests of the owners. Even Dan Voiculescu declared that "three-four oligarchic press groups were established (...) In the Romania media there are many blackmail attempts, there are many newspapers that are politically biased in favor of certain groups or certain directions".⁶

A similar statement was made by C.T. Popescu, President of the Romanian Press Club, an organization that represents the most important media institutions in Romania. He mentioned in his resignation from this function, submitted in November that: "the increasingly vulgar and shallow political life of Romania is accompanied, as if it didn't want to stay above it, by an increasingly degraded, morally and professionally, media. Local and central dirty press networks are divided in two categories: the few that were disclosed and the many that keep on doing their business. Many, too many newspapers are used like genuine bludgeons that hit the head of the victim without the least scruple of justifying the big headlines and the half-page photos. The

⁴ Such an example is the transfer of Libertatea's editorial staff to Avereia (Click) in November, as a follow-up to the taking over of the latter by Dinu Patriciu.

⁵ Dan Voiculescu transferred part of his estate on the name of his daughters and no longer appears as direct shareholder of all the media properties of his family.

⁶ Gandul, 21 October 2006, "Voiculescu-Felix mourns the loss of independent press in Romania", Doroteea Voicu.

journalists became to a too large extent mercenaries that babble about principles, then move to the media trust of the first tycoon who pays more. (...) Torrents of money coming from outside the press are now flooding the media, as they alter the professional relationships in this branch and leave brand built in more than a decade without any meaning.”

The map of ownership⁷ suffered several spectacular changes last year. S.O. Vântu admitted in February that he is the owner and the funder of TV station Realitatea TV, thus confirming the rumours that have been heard for a while in this respect. The group built around Realitatea TV had a spectacular expansion last year, as S.O. Vântu took over Cațavencu Group in June, and Money Channel TV station and NewsIn news agency were launched. Although he publicly announced he controls Cațavencu Group, S.O. Vântu doesn't appear in any official document as the owner of this group⁸.

Dinu Patriciu came back on the media market by purchasing last year daily newspapers Adevărul and Avere (presently named Click) and the periodical newspapers Dilema Veche, Plai cu boi and Romania literară. The businessman is the owner of oil company Rompetrol and he is on trial for embezzlement, money laundry and association with a view to perpetrating crimes.

The group controlled by Voiculescu family also expanded, by purchasing Amos News press agency and by launching Euforia TV station.

On its turn, the group lead by Adrian Sârbu took over Gândul daily newspaper though its print media division Publimedia.

At the end of 2006, Swiss group Ringier that is the main stakeholder on print media market in Romania associated with Turkish group Dogan within the newly established TV station Kanal D.

More and more, **small and medium size media groups** that control communication media from one or two areas (print and/or radio) are pushed by market requirements to merge or to become partners with major groups that own television stations. Despite the fact that the advertising market is growing spectacularly from one year to another, it is not yet capable to support a super-size media market distorted by the actors that don't play by the rules and that invest in media institutions for other reasons than the legitimate ones - to gain profit and to correctly inform the audience. These market disfunctionalities are forcing small or medium size actors to merge or to partner with the big "fishes", thus contributing to the ownership concentration phenomena.

An other novelty was the **increase of foreign investments on local media market**. European Media Invest owned by German group ARBO Media made a series of important acquisitions on the local market, including Ziarul de Iași or Viața liberă newspaper from Galați⁹.

An other group that has a strong presence on the local market in Banat and Transilvania in the last years in the Austrian company InformMedia. Within a context where local media suffers due to limited financial resources and local political and economic constraints, the presence of foreign actors can be seen as good news, since financial independence is one of the premises of editorial independence.

On 12 December 2006, the Competition Council fined UPC Romania, RCS&RDS, ASTRAL TELECOM and Cablevision of Romania with a total amount of 25,944,809 RON (the equivalent of more than 7,500,000 EUR). The Competition Council thus sanctioned a cartel like understanding on the **sharing of the cable services market** in Timișoara city between UPC ROMANIA and HI-FI QUADRAL. Also, ASTRAL TELECOM and Cablevision of Romania were sanctioned for dominant position abuses that resulted in increased tariffs that were not justified by the increase of costs.

⁷ www.mediaindex.ro

⁸ Details on the structure of shareholders within the major press groups are available in FreeEx Report 2005,

www.freeex.ro and www.mediaindex.ro

⁹ Viața liberă was officially bought at the beginning of 2007.

1.3. Legislation

In the field of legislation, year 2006 brought about some improvements, but also some unpleasant surprises. The major gain was for a short time the passing by the Parliament and the coming into force of Law 278/2006 proposed by the Ministry of Justice to amend the Penal Code. The Law **decriminalized the insult, the libel, and all the defamation related articles**. Unfortunately, although the politicians proved their political will to introduce these radical changes, in the beginning of 2007 the Constitutional Court ruled that the elimination of insult and libel from the Penal Code was unconstitutional, implying that this is the only mean to protect a person's right to dignity.

Two other initiatives that came into force are the **extension of the area of applicability for the Law regulating the access to public interest information (Law 544/2001)** that will be applicable to all institutions or authorities that use or administer public financial resources, any autonomous administration, national company as well as any commercial company that functions under the authority of a central or local public institution and in which the Romanian state or, according to the case, an administrative-territorial branch, is the unique or majority shareholder.

The second piece of legislation that was amended is the one regarding **public procurement**. Emergency Governmental Ordinance 34/2006 unified all the changes made during the last years in this field and made the publicly-funded contracts awarding process a more transparent one. The two changes were made under the same umbrella, with a view to make the granting of the publicly-funded advertising more transparent.

Last year, however, one saw a legislative initiative likely to limit the access to public interest information and to annul the legislative progress of the latest years. Aiming at observing Directive 98/2003 of the European Commission, the Government introduced the **Law on the re-use of public sector information**, that lays down the conditions for citizens' access to public sector information and the conditions for the re-use of this information. The European Directive stipulates the minimal conditions for the access to public interest information, allowing the member states to pass more permissive legislation ("The measures taken by Member States can go beyond the minimal norms stipulated by the present directive, thus allowing for wider re-use"). In this case Romania already had a law (Law 544/2001) that has much more liberal provisions than the ones in the Directive. The Law on the re-use of public sector information introduces much more restrictive provisions than Law 544/2001, including the proof of "a legitimate interest according to the legal provisions" by the petitioner. On September 19th, the Presidency submitted to the Parliament the request to re-examine this law, on the grounds that it violates Article 31 (1) of the Constitution of Romania, stating that "A person's right of access to any information of public interest shall not be restricted".

There was also an **attempt of the political class to politically control** an independent institution - the National Audiovisual Council. The Council's activity was blocked for a period of time due to the Parliament's refuse to designate the new Council members according to the law, following the expiration of the mandate of six members. The politicians tried to change the audiovisual law with a view to increase the number of members in the Council so that all the political parties were represented therein. After protests from CNA and the civil society, the Parliament didn't change the law anymore and appointed in December new members for the vacant positions.

The political class once again failed with respect to the **law of public broadcasting services**. The amendment of this law, an electoral promise of D.A. Alliance, began ever since early 2005 and generated several draft laws by the Ruling Party and the Opposition. Eventually, in April 2006, the parliamentary majority and the opposition reached consensus upon a rather reforming draft, able to improve the institutional independence of public radio and television. The draft was developed following public consultations with the support of some media organizations,

but things got stuck in June, after the last consultations with civil society. From that moment, nothing happened with that project, that is still at the Senate's Commission for Culture, Arts, and Mass Media. Fortunately, the public television has visibly improved its editorial performances, offering balanced quality news programs, as well as programs that justify its public service role.

At the end of the year, the Government passed via an Emergency Ordinance (**OUG no. 131/2006**), upon Justice Minister's proposal, changes to the **Law for the Functioning of the Direction for the Investigation of Organized Crimes and Terrorism** (Law 508/2004). These changes allowed the prosecutors to access computer systems without a warrant from the judge. Subsequently, the Ministry of Justice mentioned that this didn't include access to the contents of communications or data, but only access to the traffic related information and lists of the phone calls. Also, the Ministry stated that the interception, recording or searching of computer systems were possible only with judge's approval. The Ordinance was criticized by the press and civil society organizations who said it violates the right to privacy and asked for the judge's warrant to be deemed necessary also for the cases nominated by the Ministry.

At the beginning of 2007, the Assembly of the Chamber of Deputies passed a draft law annulling the effects of Ordinance 131/2006. On its turn, the Superior Council of Magistracy considered that prosecutors may supervise, intercept and record communications, as well as access computer systems only on the ground of a warrant issued by a judge.

In November, a first draft of the **new Penal Code** developed by the Ministry of Justice included sanctions with imprisonment for the violation of the right to privacy by photographing, filming or recording a person in a private space and for the publication or broadcasting of images with a person under investigation, captured on the occasion of the catch or during the retaining or preemptive arrest, during the enforcement of a procedural action *sau* within the premises and in the neighborhood of the Court, Prosecutor's Office or other criminal investigation bodies. Following the discussions with media and human right organizations that criticized the lack of some public interest exceptions, the ignoring of media role in a democratic society and preventing journalistic contribution in exposing corruption, these first propositions were taken out of the draft submitted for public debate at the beginning of 2007.

In November, the Parliament passed the new **Law of Religious Affairs** (Law 489/2006) that includes a stipulation that directly affects freedom of expression: "In Romania there are forbidden any forms, means, deeds or actions of religious defamation and feud, as well as the public offence against religious symbols". Human rights organizations protested against this stipulation, considered to be excessive and dangerous with regard to freedom of expression, but the most important religious groups and the entire political spectrum expressed their support for this legal provision.

CNA passed at the beginning of 2006 a new **Audiovisual Regulation Code**, a comprehensive document that includes all the previous regulations and decisions issued by this body. The document was passed as a follow-up to a public consultation with media industry and organizations representatives. However, the document includes a series of provisions considered restrictive by media organizations.

Also, there were several attempts to **change the audiovisual law**. The last and also the most consistent one took place in September, when the Chair of the Culture, Arts and Mass Media Commission of the Chamber of Deputies introduced amendments pertaining to the legislative modernization with a view to the transition towards digital television and also aspects related to the reflection of the electoral campaign in radio and television shows. The initiative of the draft law came from a working group that brought together representatives of media organization, industry, and competent authorities¹⁰. The Chair of the Culture, Arts and Mass Media Commission of the Chamber of Deputies took responsibility for the normative text and submitted it for parliamentary debate. However, at the time when this report was published, the Parliament hadn't passed the legislative draft yet.

¹⁰ CNA, MCTI, the Center for Independent Journalism, MMA, ARCA were part of this working group.

During some parliamentary debates upon the poor public image of the Parliament, the leader of PRM group in the Senate, Mihai Ungheanu, proposed the initiation of a **draft law on press and the right to reply**, as well as the regulation of the status of the journalists accredited with the Parliament. The senator argues: "The Senate must condition the presence of press at its works, stating the mandatory quota of information and news that media is accredited to present". The newspapers that don't observe this condition, as well as those that "present a deformed image upon the parliamentary life" can be sanctioned with the suspension of the accreditation. Also, according to the document, the Senate has a duty "to bring in front of the Court those publications that seriously distort the Senate's activity or image".¹¹

Last year, both the Presidency and the Government submitted two **law packs on national security**. The first initiative came from the Presidency in February and it stirred controversy due to the fact that the proposed law pack was classified by the Superior Defence Council of the country. The Presidency argued that the law pack was working material drafted together with the secret services and that the document was to be subject to public consultations after it would have been finally shaped by consultations between state institutions, including specialized parliamentary commissions. Eventually, the drafts were presented to the public following protests from civil society, media, and political parties. They were criticized by human rights organizations for the restrictive provisions on human rights and for the excessive power granted to the secret services. PNL criticized this initiative and the Government proposed, on its turn, another law pack on national security. The second draft has much more liberal provisions and introduces a stricter control upon the secret services. In February 2007, PNL introduced on its turn the third law pack on national security. By this moment, none of the three initiatives was passed by the Parliament.

1.4. Ethics

The discussions on the internal professional and ethic issues of the press that started in 2005 continued during 2006, too. Once again, there were situations when the press committed serious mistakes with respect to professional ethics. The rejoicing fact is that the debate was started, but there are increasingly more voices inside and outside the guild preoccupied with the observance of professional and moral standards in the media. The media analysis blogs have a tremendously important role in this respect, given their blossoming in 2006 and the launch of topics that stirred debates in traditional media. Unfortunately, there is little interest for these topics at the level of the editorial offices and journalists. The editors were not able to impose or to undertake these topics.

Like in 2005, Justice Minister Monica Macovei was subject to a press scandal that ended the same way – the newspaper apologized to the readers and to the minister. At the end of January, Gândul newspaper claimed having the letter allegedly written by Justice Minister Monica in order to request the dismissal of Prosecutor Adriana Cristescu who was in charge with Patriciu file¹². Two days later, the newspaper publicly apologized for the article "insufficiently documented and justified on one hand, and written in sententious and accusing terms, on the other hand (...) Publishing this article on priority and exclusiveness grounds was an ethical and professional blunder".¹³

Journalists and prominent public figures are willing to use their public image in order to support businessmen in delicate legal situations. Mircea Dinescu, poet, influential columnist, TV man, but also shareholder in the media trust owned by Dinu Patriciu was present by the latter's

¹¹ According to Mediafax news agency.

¹² Gândul, 30.01.2006, "Monica Macovei wrote to Bănescu and Tăriceanu that the file must be taken away from the prosecutor currently investigating Patriciu", Gabriela Ștefan.

¹³ Gândul, 31.01.2006.

side in February at the Bucharest Court as a sign of public support for Patriciu who had been indicted for several economic crimes. Another influential public personality, actor and TV star Florin Călinescu came at the Appeal Court Bucharest to publicly express his endorsement for businessman Ovidiu Tender who was on trial for a series of alleged economic crimes.

Last year marked a new press corruption scandal following the one in 2005 that involved the management of Ziu de Iași newspaper. At the end of October six persons in the management of the local press group Gazeta were arrested under the accusation of continuous organized blackmail and accessory to an organized criminal group, following complaints submitted by local politicians and businessmen. According to the act of indictment, Gazeta trust was using journalistic investigation to gain advertising contracts. A controversial measure was the confiscation of all the computers in the two editorial offices, therefore four newspapers published by the group had to suspend their activity for several days and were absent from the market. By the end of April 2007, the confiscated computers hadn't been returned to the newspapers yet. At the time when the current report was released, the six defendant were on trial outside the prison.

The case damages the press public image, but such situations were known amongst media community, although the topic was almost tabu in the pages of newspapers.

Starting from this case, the Romanian Press Club on November initiated a meeting to debate the issue and proposed as a solution for the journalist badge to be issued by the professional organizations as a guarantee against such status abuses. The meeting was attended by numerous media organizations representatives, including the members of the Convention of Media Organizations (COM); most of them rejected this solution. Eventually, it was agreed that the most suitable option was to set up a Press Ethics Council to morally sanction violations of the deontological code.

At the end of 2006, the Romanian Press Club started an institutional redefining process, following the resignation of its president CT Popescu in November. He argued that media has increasingly poor quality, that it is used as a political and economic pressure instrument, and that the journalists are turning into mercenaries. Subsequently, he decided to remain in the function and he was re-elected at the beginning of 2007. He will coordinate the institutional restructuring process of CRP that will divide in two entities – an organization to represent the interests of journalists and an organization to represent the interests of media owners.

1.5. Access to public interest information

The Law on public interest information access was amended last year. Its applicability extended to “any institution or public body that uses or manages public financial resources, any autonomous administration, national company as well as any commercial company that functions under the authority of a central or local public institution and in which the Romanian state or, according to the case, an administrative-territorial branch, is the unique or majority shareholder. The law was amended in parallel with the law on public procurement with a view to facilitate the access to information pertaining to advertising contracts granted by public institutions and companies.

The number of requests for information based on Law 544/2001 decreased 46% in 2006 compared to 2005, according to the evaluation report released by the Agency for Governmental Strategies¹⁴.

There were in 2006, too, enough cases when the authorities refused to provide the information requested by the public in total contempt of the law. Unfortunately, the “best” example in this respect is the Government itself that refused to make public the list of people who entered its headquarters in Plaza Victoria during 24 December 2004 and 26 January 2006. The request

¹⁴ Agency for Governmental Strategies, Report on the Implementation of Law 544/2001 in 2006, <http://www.publicinfo.ro/pagini/legea-544.php>

came from the daily newspaper Jurnalul Național that was trying to check a lead about the potential meeting the allegedly took place at the Government headquarters between the Prime Minister C.P. Tăriceanu, Justice Minister Monica Macovei and liberal businessman Dinu Patriciu who was at that time the subject of a criminal investigation for fraud and money laundry.

2. CASUISTRY

2.1 Aggressions and threats

On February 10, the door of the apartment of journalist Ileana Firtulescu from Petroșani was set on fire by unknown perpetrators. Ileana Firtulescu, Editor in Chief of weekly newspaper Informația found a threat note with the following content: "This was your last hearing. Be careful, you may need more money for medicines for Anca. This is just a warning". Anca, the daughter of Ileana Firtulescu was ill, but this was known to few people. Several days later the journalist's daughter was threatened by an unknown person as she was coming back from school. She was told it would be better for her family to go back in the town they came from. These intimidation actions occurred after Ileana Firtulescu published several investigations regarding the connections between the underworld and employees of the local Police. The investigation started by the Police didn't manage to identify the offenders.

On March 6, the well-known business man Marian Iancu insulted and spat on journalist Ovidiu Oanță from ProTV. Marian Iancu was getting out of the General Prosecutor's Office where he was called for a statement in the RAFO-CAROM file (the prosecutors started a penal investigation on him in this file. "I was waiting for him and he came out, I asked how the hearing went, but instead of answering me, he cursed me and spat on me. He didn't warn me that he didn't want to be on camera", journalist Ovidiu Oanță from ProTV declared. One hour later, Iancu called the journalist and he apologized.

On March 21, journalist Loredana Chimoiu from Antena 1 was attacked by a group of women who hit her with the fists because she was "too daring". The journalist was trying to film a news material about the kidnapping of a 14 years old girl, the daughter of „hag” Mercedesă. The policemen who were present didn't intervene. Loredana Chimoiu filed a complaint at Section 2 from Craiova. The Police identified the aggressor, but couldn't sanction the person, as she had a mental disability certificate. The journalist was involved in several similar incidents during the last years.

On April 30, after the football game between Steaua and Middlesborough, Steaua Club owner George Becali asked his bodyguards to take reporter Ana Maria Neagu from Realitatea TV out of his face. She asked him after the game whether he was proud of his players following their elimination from UEFA Cup semifinals. One of the bodyguards lifted the journalist, hit her in the leg and insulted her. George Becali is recognized for his aggressive behavior towards the journalists, as he insulted or aggressed several of them during the last years.

On May 26, 3 journalists (Dan Radu, Head of Local Newspapers Division of Publimedia, Paul Niculescu, Network Editor within the same company, and Victor Lungu, PR Director of Monitorul de Cluj daily) were aggressed by Tudor Chirilă, the lead singer of *Vama Veche* band. The three were sitting on a terrace in the center of Cluj city, when Victor Lungu took a picture of Tudor Chirilă who was leaving the same pub. Chirilă had a violent reaction, rended the journalist's camera and he entered a taxi. When the three threatened to call the police, Chirilă hit Paul Niculescu in the face and threw his mobile phone on the ground. Initially, the three journalists filed a complaint to the police that started investigations in the case. Eventually, the complaint was dropped and the parties reached an amiable understanding.

On August 2, photographer Alex Nicodim from Gazeta Sporturilor daily was agressed by the Brazilian goalkeeper Carlos from football team Steaua during the break of the game against ND Gorica. The incident occurred when the journalist tried to take some photos of the player sitting on the substitutes' bench. Carlos hit his camera that fell down and was damaged. Fellow reporters Răzvan Rotaru and Mihai Stetcu from Gazeta Sporturilor asked for explanations from club manager Mihai Stoica, but the latter said that Carlos proceeded normally, insulted them and threatened to beat them. The next day, Mihai Stoica stated in a press release that he didn't curse the reporters; he only demanded for Alex Nicodim to show more respect to goalkeeper Carlos. Also the next day, during a press conference where he also denied that Mihai Stoica addressed any insult to the journalists, Steaua club owner George Becali used very offensive language when addressing to the reporter from Antena1 TV station. She had asked him whether he was going to dismiss Mihai Stoica as a follow-up to the incidents occurred in the previous day.

On August 17, a team from Antena1 TV station was retained in Giurgiu by three cars while investigating alleged real estate businesses conducted by PNL Giurgiu Mayor Lucian Iliescu. At the moment of the incident, the team was filming one of the houses that was subject to the journalistic investigation. Several persons got off three cars and puled and threatened the journalists, taking their camera and trying to take the tape out. One of the perpetrators was Smaranda Iliescu, the mayor's wife. The entire incided is recorded on video camera. The journalists submitted a compaints to the Police, and the file is now at the Prosecutor's Office.

On October 6, President Traian Băsescu seriously insulted a journalist, calling him "asshole". Several minutes earlier, during the press conference that followed the appointment of the new SRI Director, the president had answered in a distant manner to a question from that journalist, Ovidiu Zară from Curentul. The President was heading to SRI exit door and he made this remark in private, talking to SRI former director Radu Timofte and to the newly appointed director of the same institution George Maior. The remark was heard by Ovidiu Zară and by other journalists who were close enough to the president. The President didn't appologize.

On October 17, Ioan Romeo Roșianu, Editor in Chief of eStrada weekly from Baia Mare contacted Adrian Filip, the leader of PSD branch in Vișeu de Sus in order to document the oil business conducted by the PSD local leader with military units affiliated to the National Ministry of Defense (MapN). In reply, Roșianu was cursed and he received death threats. Also, according to the journalist's account, Adrian Filip threatened he was going to blow away the editorial office of eStrada. The journalist submitted a complaint to Baia Mare Police, but, by the time this report was published, the police investigation didn't reach any conclusion.

On October 31, journalist Dragoș Bota from Gândul newspaper was agressed during an investigation analyzing the lawfulness of a mine in Bozovici town from Caraș-Severin county. The journalist took several pictures on location and he was moving away when he was stopped by an employee of the company in charge with the mining plant. He took away the journalist's camera that was subsequently retrieved with the help of the Police.

2.2 Pressures from authorities. Political and economic pressures

On January 5, Ziua daily published an article on the Government's intention to privatize the National Lottery, suggesting that one of the favorites for purchasing the stock on sale would be George Copos, Vice-premier of the Government at that time, due to close business relation between him and Lottery VP Nicolae Cristea. The article didn't present the point of view of the Lottery; the author stated it was impossible to contact the management. Thus, the Lottery sent a letter to the newspaper, asking for the advertising contract with the newspaper to be suspended: "Given the obviously denigrating information on Romanian Lottery published in the 05.01.2006 edition of ZIUA daily and that our company was not offered the option to present its official position on the published article, we are asking, in accordance to Article 2 of the Contract no.

86/9/26.09.2005, for the annulment of the publication of our ads in ZIUA newspaper starting 06.01.2006". Such clauses that mistaking the editorial and the advertising content are a common practice on Romanian media market, although there are few people willing to discuss it.

In February 2006, a CD with classified military information regarding the situation of Romanian troops in Afghanistan reached several newspapers. As the information was not of public interest, România liberă and Ziu newspaper put the national security above the journalistic interest and didn't publish the information on that respectiv CD. Ziu published an article warning state institutions that classified military information have reached the public area.

Despite this responsible journalistic conduct, the prosecutors started an investigation against the journalists involved. Marian Gârleanu, local correspondent of România liberă newspaper in Vrance, was arrested on February 17 for two days, with an impressive display of force that also included special troops. On February 18, Ziu newspaper local correspondent Sebastian Oancea was also interogated, his house was searched, and his assets (including the personal computer) were confiscated. The two were accused of holding and disseminating classified military information and were asked to reveal how the CD came into their possession.

Previously, the Ministry of National Defense had declared that the people responsible for this information leak were identified as being members of the army and that criminal investigations had been started on them. Moreover, Defense Minister Teodor Atanasiu declared that the respective information didn't pose any threats to Romanian army's security since it was more than two years old.

Other three journalists from Ziu, Bogdan Comaroni, Doru Dragomir and Victor Roncea were investigated by the prosecutors for holding classified information, despite the fact that the journalists informed the authorities about this information and they handed it in. Ovidiu Ohanesian from România Liberă was also interrogated, as well as Sorin Roșca Stănescu, Ziu Director and Petre Mihai Băcanu, România Liberă Director. Moreover, Ziu newspaper editorial office was visited by prosecutors who copied part of the computers used by the journalists who investigated this case. Some of the questions addressed to the journalists were far beyond the topic of the legal investigations – the prosecutors asked them wether they were members of professional associations, about their connections to such associations or to other investigation journalists.

These abuses were possible due to contradictory legislation and Stalinist tendency of the prosecutors, who chose to enforce an obsolete law (Law of Domestic Security 51/1991) passed before the passing of the Constitution and that doesn't take into account the provisions of Law 182/2002 that abrogates all the contrary legal provisions. According to Law on Classified Information 182/2002, only "authorized personnel" is responsible for protecting classified information. Article 16 of this law explicitly stipulates that only authorized personnel that issues, manages or comes into the possession of classified information have the obligation to protect it. Since the journalists as well as the public are not "authorized personnel", it results they don't have an obligation to protect state classified information. The change in the conception regarding the people who have the obligation to protect state classified information implicitly results in the abrogation of paragraph 4 of Article 169 of the Penal Code that provided each person has an obligation to protect state classified information.

One year after these events, the situtation of the journalists accused with holding classified information is still unclear. This uncertainty is aimed at intimidating the journalists. They don't know the status of their file, thus they are unable tu sue the Prosecutor's Office with the High Court of Justice and Causation, the institution that is responsible of this situation.

For a better representation of this situation, one should remind the measures taken by the Ministry of National Defense against the people who were responsible for the military classified information leak. In June 2006 the Ministry stated that "79 people, brigade commanders and their deputies, battalions commanders and chiefs of staff, responsible with the protection of classified documents and commanders of sub-units were sanctioned in accordance to the provisions of the military regulations and of the military staff status, as follows: three generals were sanctioned for this security incident, other 67 officers, two military chiefs and sever deputy officers were penalized with appropriate sanctions for not observing the provisions regulating the access and work with classified information. The sanctions enforced are the following: six people

were sent to the Martial Court with the proposal of postponement for the next promotion, 11 military staff were grounded, 20 officers received written reprehensions, 19 received a warning, 23 were fined in accordance to their individual responsibilities in the work with classified documents”¹⁵.

Another situation when the journalists were required to reveal their sources involved once again Ziua newspaper and its director Sorin Roșca Stănescu. One month before, on February 24, the newspaper had published an article entitled “The State of Police”. The article was based on classified documents belonging to the National Office for Preventing and Combatting Money Laundry (ONPCSB). The prosecutors asked Ziua to make the published documents available to them. The newspaper handed the documents to the prosecutors. Several weeks later, the prosecutors tried to make pressures upon S.R. Stănescu so that he would reveal the source of those documents. He refused on the grounds of the sources’ confidentiality journalistic privilege.

On March 8, police officers in Tg. Mureș in March confiscated from the points of sale all the copies of local Magyar language newspaper Európai Idő. The confiscated issue included an article reproducing and commenting a radical proclamation urging for the constitution of an “Independent Szekler Republic”. Nicolae Căbulea, Head of Police Inspectorate Mureș declared that the newspapers had been confiscated in order to be examined as the content was violating national security and that they were to be subsequently returned to the press distributors. . “If we will find that the materials in this newspapers are an attempts against the Constitution of Romania and they don’t observe the legislation in force, we will undertake the necessary steps and handle the case to the Prosecutor’s Office. This is not an actual confiscation. We are simply taking them away and this is a procedural step stipulated in the Penal Procedure Code”, Nicolae Căbulea said.

If the Mures County Police Inspectorate wanted to examine the article published by Európai Idő, then it would have been enough to take one copy of the newspaper, instead of confiscating all the edition which represents a serious censorship situation.

On April 4, Ovidiu Ohanesian, one of the three Romanian journalists kidnapped in Iraq in 2005 resigned from România Liberă daily accusing the newspaper management of having prevented the publication of the article “Kidnapped in Iraq, luxury prisoners in Bucharest”. The article was a detailed account of the debriefing period spent by the three journalists when they came back from Iraq. The journalist also accused the newspaper management of having prevented him from publishing information unfavorable to the current ruling party and from taking part in TV shows where he was to make accusations against the authorities with regard to the investigation of the kidnap he was subject to in Iraq.

Newspaper Editor in Chief Bogdan Ficeac said the article was not published “because it was unpublishable”, as there wasn’t enough evidence to substantiate the allegations, therefore the newspaper cannot be accused of censorship.

On the morning of May 1st the weekly Săptămâna Financiară was nowhere to be found at RODIPET distribution units throughout the country. That week’s issue included an article about the RODIPET management businesses. The management of RODIPET informed Săptămâna Financiară in a facsimile sent out in the morning of the same day that there are problems with the distribution of the newspaper due to the limited staff working on that day and they asked for a meeting “on this issue (...) to be attended by Mr. Mihai Craiu, Radu Preda and Robert Veress”. These are the newspapers’ general manager, the editor in chief and the author of the article on RODIPET. The last two don’t have any competences or duties in the commercial relations of the newspaper. Săptămâna Financiară was the only newspaper to encounter distribution problems

¹⁵ MapN Press Bureau – într-o adresă către AMP, iunie 2006.

on May 1st or to receive such notices from RODIPET. Media organizations reacted and disapproved of RODIPET for censoring a newspaper and violating citizen's right to information.

In the beginning of June, two journalists from Ziuva daily, Victor Roncea and George Damian posted on the Internet an website called www.mae.haos.ro. The site was an almost identical replica of the official website of the Ministry of Foreign Affairs (www.mae.ro), but it was a pamphlet on what the journalists considered to be "the chaos in the Ministry". A title clearly explaining that was a pamphlet was posted on the front page of the website. Several days later, on June 15, the Ministry of Foreign Affairs asked the web hosting company CHML "to cease propagating the information" within the www.mae.haos.ro website, on the grounds that it was defamatory and it could even be "illegal". The Ministry also asked for the personal data of the website author. The web hosting provider fulfilled both requests, although it didn't have any legal obligation in this respect. On the contrary, its obligation was to protect the confidentiality of the private data. Media organizations protested. MMA sent a letter to MAE and condemned this action as a violation of the freedom to expression. The Ministry had a public reaction only one month later and stood by its initial position regarding the censorship of the website. The Organization for Security and Cooperation in Europe (OSCE) and the non-governmental organization Reporters without Borders (RSF) also criticized severely MAE's gesture.

On July 1st, Ziuva published an article revealing that the Ministry of National Defense and the Defense Intelligence General Directorate (DGIA) drafted and approved a letter that was sent to all the Romanian Military Attaches, informing them that Romania will withdraw its troops from Iraq. The letter had been sent before the authorities made an official decision on the troops withdrawal. The letter was initiated by the National Liberal Party that was also in charge with the Defense portfolio at that time. The incident stirred a major political scandal in Romania.

On the day the article was published, Vasile Păun, Deputy Director of the Defense Intelligence General Directorate (DGIA) called Doru Dragomir, the author of the article in Ziuva and warned him that was the third and last time when he wrote about him and that this time he won't be forgiven. Also, he threatened the journalist he was going to destroy him and that he was going to pay for what he wrote. When the journalist told him the conversation was recorded, Păun stopped threatening and asked him to accept a meeting in order to clarify the situation. Dragomir accepted, but he asked for the meeting to take place at the editorial office. Păun insisted for the meeting to be in a coffeeshop, but the journalist said he would come only in the company of one of his colleagues. At that moment, the Deputy Director of DGIA started threatening him again and warned the journalist upon the "serious consequences" and the "risks" he was exposed to and that he was willing to explain to him at this meeting.

On July 19 Camelia Voiculescu, Chairwoman of Intact Media Group sent an open letter to the Chief Editor of one of the newspapers owned by Group, Jurnalul Național, asking him to dismiss columnist Dorin Tudoran. The request was made five days after Tudoran had published a highly critical article on the politician and businessman Dan Voiculescu, the father of Camelia Voiculescu¹⁶. In the letter, the Group Chairwoman argued there was a difference between freedom of expression and defamation and that the columnist insulted the politician using phrases that cannot be published in a newspaper such as Jurnalul Național.

In a direct email addressed to Tudoran and in an article published in Jurnalul Național, Dan Voiculescu was more balanced towards Tudoran and didn't ask for the latter to be laid off. However, Dorin Tudoran resigned after the incident.

In Bacău, the conflict between Mayor Stăvărache and Ziarul de Bacău newspaper continued in 2006, too. The mayor claimed that the constantly critical attitude of the newspaper was in fact caused by the economic interest of the newspaper's owner, Constantin Sosu, a local businessman who had a sanitation contract with the municipality. During the last years, the PNL affiliated mayor has been using various methods to harrass the local media – he sued journalists,

¹⁶ Dan Voiculescu transferred part of his estate on the name of his daughters and no longer appears as direct shareholder of all the media properties of his family.

threatened to suspend their accreditations or even proceeded accordingly. On July 2006 he restricted the access of journalist Costinela Breahnă from Ziarul de Bacău to the mayoralty, after she had published an article about a contract between the municipality and a company owned by a fellow politician of the mayor. The journalist was no longer allowed to move freely in the city hall premises, but only accompanied by one of the municipality bodyguards. The mayor sent a reply stating that journalists are tendentious and that they are in no position to decide which companies are awarded the public procurement contract of the city hall.

A major scandal broke out at the end of September when journalist Mirela Romanet from Ziarul de Bacău discovered that Vice-Mayor Constantin Scripăt was the manager of two private companies which put him in a conflict of interests position. The journalist contacted all the parties involved in order to draft the article. In one hour the owner of the newspaper called and asked the editorial management not to publish the article. His request was ignored and the article was published in the next day issue as planned. The same day, manager Nicoleta Bichescu, editor in chief Eduard Adam and Mirela Romaeț resigned. They issued a press release denouncing the pressures made by the owner in order to stop the publishing of the article. The journalists also exposed the blackmail of Mayor Stăvărache during the last years; he was threatening the owner that he was going to cancel the sanitation contract with the mayoralty if he didn't stop the critical articles in the Ziarul de Bacău newspaper.

2.3 Accessul to public interest information

Ioan Romeo Roșianu, journalist based Baia Mare, won several law suits against the Baia Mare Mayor who was compelled, following final and executory Court sentences, to communicate public interest information on public procurement and public domain administration contracts and to pay civil damages to the journalist. However, the decisions remained unexecuted with respect to the communication of the requested information, which affected the plaintiff in the effective exercise of his journalist profession, as he was unable to present the public information he should have had access to based on a Court decision.

On the 4th of July 2006¹⁷ the plaintiff intimated the European Court of Human Rights based on the infringement of Articles 6 and 10 of the Convention; if one doesn't execute a Court decision regarding a civil right of the plaintiff, that constitute a denial of the effective access to justice that, moreover, was likely to restrict the press' freedom of expression in public interest issues¹⁸.

The Government of Romania refused to make public the list of people who entered its headquarters in Plaza Victoria during 24 December 2004 and 26 January 2006. The request came in the beginning of February from the daily newspaper Jurnalul Național that was trying to check a lead about the potential meeting the allegedly took place at the Government headquarters between the Prime Minister C.P. Tăriceanu, Justice Minister Monica Macovei and liberal businessman Dinu Patriciu who was at that time the subject of a criminal investigation for fraud and money laundry. The request of Jurnalul Național was dismissed by the Guard and Protection Service, after the Government and the Government' General Secretariate declined their competence in this case. The newspaper sued the Government, but by the time this report was published there was no Court decision in this case.

¹⁷ Roșianu vs. Romania (request no. 27329/06).

¹⁸ This case is entirely quoted from APADOR-CH 2006 Annual Report (www.apador.org)

2.4 Lawsuits

2.4.1 Domestic trials

On May 17 2006, the Bucharest Court of Appeal sentenced journalist Ralu Filip, President of the National Audiovisual Council, to pay 10,000 RON damages in a libel lawsuit versus prosecutor George Mocuța. In 2000, Filip had published several investigations in *Curierul Național* daily, claiming that the prosecutor bought an apartment in Bucharest within a suspicious context. The prosecutor had also filed for a criminal lawsuit, but the Court absolved the journalist from a criminal sentence. Ralu Filip submitted a complaint to the European Court of Human Rights.

In 2006, APADOR-CH counsellors worked on the case of Constanta based journalist Cristian Anton sued by Constanța Mayor Radu Mazăre. The latter asked for the journalist to be convicted and for moral damages amounting to 1.5 billion ROL (the older currency) for the alleged harming of his reputation in an article published on November 24 2005 in *Replica de Constanța* newspaper. In the article entitled "Pickaxe claims groups of interests dig behind his back" Cristian Anton presented information obtained during a discussion with a prosecutor from the National Anticorruption Department (DNA) regarding DNA activity in Constanța. The article was reviewing the difficulties confronted by DNA, such as lack of personnel and political pressures and, in the end, presented the opinion expressed by the prosecutors regarding the alleged abuses of DNA against Radu Mazăre. With regard to this issue, the journalist presented the prosecutor's opinion stating that there were no such abuses against the above mentioned mayor; on the contrary, he was free to leave the country and there were no measures taken against him. The prosecutor reminded that "one doesn't exclude the possibility" for such a measure to be taken "depending on the investigation results". R. Mazăre also asked for the prosecutor F.T. to be sentenced to pay damages together with the National Anticorruption Department.

Bucharest District 1 Court found in favor of journalist Cristian Anton and dismissed both requests of R. Mazăre in a decision rendered on December 15, 2006. The Court found one didn't dispute the fact that Mr. Mazăre was subject to a DNA investigation, that the statement on the possibility of taking some measures during the investigation was a mere supposition that depended on the results of the investigations, and that the journalist merely reproduced a conversation between him and a prosecutor on the activity of DNA and the important cases on its agenda. That was done within the limits of freedom of expression regarding a public interest issue about a public personality – a politician that is on public service, thus he must be under the public eye and in the attention of the electors. "If it wouldn't be so, the exercise of democracy would be deprived of meaning", Bucharest District 1 Court ruled¹⁹.

On July 10, Sibiu based journalist Daniel Tomozei, General Manager of local newspaper *Dacii liberi* was sentenced for libel by Sibiu Tribunal and he had to pay a penal fine amounting to 100 RON and 500 RON moral damages to Ilie Carabulea, an important local businessman. He filed a penal complaint against the journalist for insult and libel, considering that *Dacii liberi* severely harmed his public image in the published articles. In its 8-21 June 2005 copy the newspaper had published several comic cartoons and an article accusing the businessman of various illegal deeds and of having taken advantage of his business to conduct suspicious relations with the authorities. The headline on the newspaper's first page said: "Chef Ilie Carabulea serves the house special – the County to go", while pages 5-6 published an investigation entitled "After he cleaned out Sibiu with the help of PSD and Mayor Iohannis, Atlassib owner takes over SNCFR domains. A victim of the fate, Carabulea swallows the city without mercy!".

¹⁹ This case is entirely quoted from APADOR-CH 2006 Annual Report (www.apador.org)

2.4.2 Cases referred to the European Court for Human Rihts

In the case *Stângu and Scutelnicu vs. Romania* (request no. 53899/00) supported by APADOR-CH, the Court rendered its decision on January 31, 2006, finding that there was no violation of Article 10 of the Convention in the civil conviction of the plaintiff journalists for an article on alleged corruption deeds of a high official in the Romanian Police. ECHR decision includes a separate opinion from two judges in the panel of seven, who considered that the national courts didn't substantiate enough the conviction applied to the plaintiffs, thus infringing Article 10 of the Convention. The Association assisted the plaintiffs in submitting a request for referring the case to the Grand Chamber. The request was dismissed on July 3rd 2006. Thus, the Chamber's judgement remained final²⁰.

In another case (*Sorin Țiței vs. Romania*, request no. 1691/03), the Court found that there was no violation of the journalist's right to a fair trial (Article 6 of the Convention) or to free expression (Article 10). The journalist had published in 2001 an article in *Adevărul* daily pertaining to the disastrous situation of tourism in Păltiniș resort. The article claimed that the person responsible for this situation was a local investor. The journalist had received a final Court sentence in April 2002 – to pay a 500 RON administrative fine, 1,000 RON moral damages, 200 RON trial expenses for the plaintiff and another 200 RON trial expenses for the state.

Barb vs. Romania (request no. 5945/03) was taken over by APADOR-CH in March 2006. The case regards the penal condemnation for libel of a journalist who published an article about a businessman and also President of one of the branches of the German Democratic Forum. His company was intermediating jobs in Germany. The article was implying that the businessman cheated several persons by promising them steady jobs. On April 2006, the plaintiff assisted by de APADOR-CH sent to the Court the answer to the Government observations regarding the violation of Article 10 of the European Convention – the right to free expression. The Court is to render a decision in this case, as the merits of the case and the conditions of admissibility will be jointly examined²¹.

On December 19 2005, Galați Court dismissed the appeal made by journalist *Cristi Calmuc* and upheld the first judgement of *Tecuci Tribunal* having sentenced the journalist to pay a penal fine of 250 RON and 2000 RON as civil damages for libel. On April 8 2005, the journalist had published in the local weekly *Telegraf Expres* the article "Stop the theft" accusing *Tecuci city mayor* of having granted illegal leases for the three public parks in the city to private companies and having established a moster like group together with several local councilors. The journalist's allegations were supported by the declarations made by one of the local councilors who refused to sign those contracts.

The plaintiff intimated the Court on June 6 2006, on the grounds of Article 10 of the Convention. He argued that the penal sanction he received was unnecessary in a democratic society, since his article covered a public interest issue regarding the activity of a politician, it had an undisputable factual base, and the journalist, in good faith, documented before publishing the article²².

2.5 Labor rights

On October 3, the journalists from Magyar language newspaper *Kronika* initiated a Japanese strike following the refuse of the management to sign the collective labor contract. According to the union leaders, the General Manager refused to negotiate on two issues – the editorial team structure and the minimum wage – claiming he would agree on these with the editor in chief. When the protests intensified and *MediaSind* trade union came to the support of

²⁰ This case is entirely quoted from APADOR-CH 2006 Annual Report (www.apador.org)

²¹ *Idem* 19.

²² This case is partially quoted from APADOR-CH 2006 Annual Report (www.apador.org).

the union, the management agreed to negotiate all the aspects pertaining to the contract with the union leaders.

2.6 Press and Corruption²³

On October 30, six persons in the management of the local press group Gazeta were arrested under the accusation of continuous organized blackmail and accessory to an organized criminal group, following complaints submitted by local politicians and businessmen. The company office, including those of Bună Ziua, Ardeal and Gazeta de Cluj newspapers, as well as the residences of the defendants were searched. The prosecutors confiscated the computers in the two editorial offices, therefore four newspapers published by the group had to suspend their activity for several days and were absent from the market. By the time this report was published, the confiscated computers hadn't been returned to the newspapers yet.

The prosecutors have been investigating this file ever since 2004 when a group of businessmen and local officials had submitted complaints accusing the management of Gazeta Group of blackmail. According to the indictment, the Trust was using journalistic investigation in order to obtain advertising contracts from the subjects of those respective investigations. Several of these articles were published, but other was never revealed to the public. The prosecutors' operation led to a series of declarations from local businessmen, politicians and civil servants claiming they had been blackmailed by Gazeta employees, too. A journalist and former employee admitted such activities were funding the newspapers published by the Group.

Also, one of the nine defendants admitted the existence of such practices and having been involved.

The press company was established in 2004 and has been growing to 10 newspapers by 2006. In December 2006 two other people from the Group's management were arrested under the same accusations. On January 19, 2007, nine people were sent in front of the Court indicted with continuous organized blackmail, accessory to an organized criminal group, and money laundry. Presently, the six culprits were released from jail (three at the end of January and three at the end of March) and they are on trial.

Amongst the arrested, there are people who have previously worked for various state institutions and who, according to the act of indictment "hold compromising data or information or have access to such information regarding politicians, rich people or people with important functions in the local administration or public institutions. The most relevant in this respect are defendant Avarvarei Adrian (former employee of Military Unit 0215) and defendant Ioan Oțel (former chief of the Organized Crime and Narcotics Service Cluj)". They were both accused of having maintained contact with police officers still on service who were providing information subsequently used by the press group for investigations and blackmail. We find it extremely serious that two former secret services officers without any journalistic training were granted press badges.

On March 1st, Claudiu Sere, former director of Jurnalul de Transilvania newspaper was sentenced with a final sentence by the Court of Appeal Suceava to four month of imprisonment with suspensiobn and 300 RON fine for blackmail. Sere was accused by local businessman Laszlo Iszak from Miercurea Ciuc of having blackmailed him in order to obtain an advertising contract. In a statement for Evenimentului Zilei, Sere denied the accusations, saying that: "If this offence I was accused of would have been real, if this would have been a protection fee, there

²³ See the report "Trends in the reflection of the press in the press (II). Studiu de caz: Corupția în presă, octombrie – decembrie 2006", published by the Center for Independent Journalism in partnership with MMA and the Romanian Center for Investigation Journalism. www.cji.ro

wouldn't have been a perfectly legal services contract on which the company I was managing and that published the newspaper paid the due taxes and VAT to the state"²⁴.

2.7 Press and the former political police (Securitatea)

At the beginning of July, journalists association Civic Media²⁵ launched the "Clean Voices" campaign with a view to expose opinion makers, columnists and journalists in management positions that have collaborated with the former political police (Securitatea). Civic Media made a list with more than 1000 people and asked the National Council for the Study of Securitate Archives (CNSAS) to verify whether this people are responsible for political police deeds during the communist regime. Shortly after, several reputed journalists and public personalities confessed or were exposed by CNSAS as former collaborators of Securitate²⁶.

Besides these visible results, the campaign started an important debate on the ghosts of the past that are still haunting the public life in Romania and influence the public agenda, manipulating the politics and the business environment.

A related topic came to the attention of the media community shortly after the release of the "Clean Voices" campaign. Curentul daily published excerpts from the 2001 correspondence between the former director of the Romanian Intelligence Service (SRI) Radu Timofte and a MP. According to the published documents, Timofte admitted that SRI had undercover agents in the editorial offices. SRI Spokesperson Radu Berbaru declared that SRI is still using such practices. The media community had a strong reaction, condemning these undermining actions and urging for amendments to the current legislation that would forbid the secret services to infiltrate agents in editorial offices. Soon after, the Romanian Press Club introduced a stipulation in the Deontological Code recommending journalists not to work as employees or undercover agents for the secret services.

²⁴ Evenimentul zilei, 01.03.2007.

²⁵ www.cicivmedia.ro

²⁶ Pentru mai multe detalii referitor la acest subiect, vezi și raportul "Tendințe în reflectarea presei în presă (I). Studiu de caz: Presa și Securitatea, august –septembrie 2006", publicat de Centrul pentru Jurnalism Independent, în parteneriat cu AMP și Centrul Român pentru Jurnalism de Investigație. www.cji.ro