

Media Monitoring Agency

- Member of the Reporters without Borders Network -

# FreeEx Program

## Press Freedom in Romania 2007



Media

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ActiveWatch

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Freedom of Expression Program - FreeEx was started by MMA in August 1999 with a view to contribute to the protection and promotion of the right to free expression and to press freedom.

MMA publishes annual reports on press freedom situation in Romania.

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## Methodology

FreeEx Department has been publishing annual reports on press freedom since year 2000. The purpose of these reports is to provide an accurate image upon the main events and tendencies in what concerns the freedom of expression, especially press freedom.

We divide the infringements against freedom of expression and press freedom as follows:

- Attacks: 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;
- Pressures of authorities: pressures made on the journalists and media institutions 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 institutions in this respect).
- Economic pressures: pressures upon journalists and media institutions made by companies or businessmen (offering advertising contracts, cancelling advertising contracts, asking for certain information not to be published or for certain journalists to be laid off in order to maintain the advertising contracts etc.).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 license.
- Self-censorship: journalists refraining from publishing public interest information as a consequence of indirect pressures made by the owners or the editorial chiefs;
- Legislation: pieces of legislation affecting the legal environment in which media functions and limiting the journalistic freedom of speech.

The media business environment (market division, acquisitions, merges, regulatory framework, financial issues etc.) has an impact upon journalists' freedom of expression and the quality of media products. Thus, FreeEx report includes a special section dedicated to a brief analysis of the media market.

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](http://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. This report is by no means exhaustive; it is a mirror of the events as they were brought to our knowledge and to the best extent we were able to document them.

## 1. GENERAL FRAMEWORK

### 1.1. Introductory remarks

The highlights of 2007 were:

- An increase in the political pressures, especially those coming from the higher levels of the political class;
- Public television and National Audiovisual Council became subject to negotiations between the political parties;
- In premiere, a politician with a leadership position in a major party was appointed as the Director of the Public Television;
- President Traian B.ăsescu was the undisputed champion of insults and attacks against journalists. He also committed the most serious of such gestures;
- The media market became stable and the major press holdings strengthened their position;
- The development of strong local networks continued;
- The decision of the Constitutional Court to declare unconstitutional the law which was decriminalizing insult and libel;
- The access to public interest information was facilitated by the improvement of the regulatory framework, but obstructed by the fact that the public institutions in charge failed to observe these regulations;
- Multiple legal initiatives having a negative impact upon freedom of expression;
- Lack of quality editorial products due to the disregard of public interest topics, the violation of ethical principles and the increasing emphasis upon the sensational, especially in television programs;
- Lack of interest from the editorial bodies towards the observance of professional standards;
- Major divide on labor market between the high demand of qualified personnel and the extremely low supply;
- The public exposure of defective media mechanisms such as financing which has a potential editorial impact and gaining immoral benefits from press activity.

In 2007 the attacks against press freedom continued and intensified according to the tendency noticed in 2006. The political pressures, especially those coming from the higher levels of the political class became more intense. The main mechanisms used to enforce these pressures last year were the abusive use of authority in order to exercise political control on important media institutions<sup>1</sup> as well as the use of the legislative process in order to block or prevent the enforcement of laws or the functioning of various institutions.<sup>2</sup> The upcoming electoral year raised the media stake and the politicians had no hesitation to exercise control wherever the law allowed it - CNA, TVR - or to block necessary legal reforms.

Although the number of attacks or threats against journalists didn't increase, many of these cases were generated by top level politicians. President Traian B.ăsescu led the top of insults and attacks against journalists. The most widely covered incident was when B.ăsescu grabbed the phone of a journalist who was filming him with this phone, in a public place. The president left the scene and took the phone with him. Thus he was recording himself insulting the journalist in a private conversation with his wife (he called her "*dirty gypsy*"). Such gestures are a threat to all journalists given the message they send.

One continues to encounter situations when major representatives of local authorities (mayors of important cities) conduct themselves as "*local barons*", offending and threatening journalists or illegally suspending their accreditation as a punishment for the critical articles they

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<sup>1</sup> Political negotiations between the Liberal Party (PNL) and the Social Democratic Party (PSD) for the sharing out of the National Council of Audiovisual (CNA) and the public television (TVR) management positions; pressures upon the public television and the appointment of a high rank politician as President and General Director (PDG). See the chapters "*Public television*" and "*Changes in the management of the National Audiovisual Council*".

<sup>2</sup> The Ministry of Interior and Administration Reform (MIRA) intention to replace Law 544/2001; the blocking of the reform of the Audiovisual Law and the Law on the Functioning of Public Radio and Television Services; various other bills. See the chapter "*Legislation*".

publish.

In early 2007, the Constitutional Court rendered a decision that made the media legislation reform go years backwards: they ruled the law decriminalizing the insult and the libel was unconstitutional.

The access to public information underwent a new legislative improvement following those occurred in the last years by the amendment of Law 544/2001. Most amendments pertained to the enlargement of the law enforcement field. However, many of the institutions targeted by this law hardly accept to observe the legal procedures and the only way to make them more transparent is to resort to the Court of Law.<sup>3</sup> There were also governmental attempts to eliminate Law 544/2001 completely and to replace it with an Administrative Code including only a small part of Law 544/2001 provisions.<sup>4</sup>

After several years of spectacular changes, the media market became rather stable, as the major groups strengthened their market position also due to the sustained growth of the advertising market. More interesting moves took place on the local market whereby foreign or domestic capital groups started developing strong local networks.

There are also examples of major media investments that didn't return any profit to their owners. Moreover, they generate annual losses amounting to millions of euro. In such cases one is entitled to suspect that the media investments is made to back up the political or economic interests of the owner or even to influence the potential criminal investigations on the owner.<sup>5</sup>

The stunning development of the media market in the last years also resulted in a major divide on the labor market, given the high demand of qualified personnel and the extremely low offer. This situation has a direct impact upon the quality of the editorial products. Also, the lack of active cooperation between the universities which provide media degrees and the industry has a negative influence upon the quality of the editorial products.

This decrease in the quality is also generated by the lack of interest for the observance and implementation of professional standards within the editorial offices. Another reason is the rush for rating.

According to a report issued by the Research Department of the Media Monitoring Agency only a few above 50% of the news features broadcasted in the prime time news bulletins of major TV stations were news which contained information of public interest in the monitoring period. The rest of the news features pertained to human interest topics, accidents, entertainment news etc. According to the study, journalists often confront problems when it comes to staying true to the deontological principles, especially in what concerns the observance of the presumption of innocence and the presentation of all the points of views of the conflicting parties.<sup>6</sup>

Last year two cases indicating the dysfunctional media mechanisms in Romania were revealed. The 'Gigi Becali - Pro TV'<sup>7</sup> case proves the existence of unclear media funding mechanisms by its own subjects, with potential direct implications upon editorial independence. This case is important both because the financial agreements between the parties are not transparent and because such agreements are unethical. The 'Chirieac' case raises the issue of journalists who also conduct other businesses and use the journalistic activity to promote their business interests.

3 See MMA vs. the Romanian Post Office Company, chapter "Access to public interest information".

4 See the chapter "Legislation".

5 See the Report "Press freedom in Romania, year 2006", chapter "Media market" published by the Media Monitoring Agency - [www.freeex.ro](http://www.freeex.ro).

6 See the report "Man bites the news - Analysis of the TV news from the perspective of public interest and journalistic practices" - Media Monitoring Agency, May 2007 - [www.mma.ro](http://www.mma.ro).

7 See the chapter "Ethics and self-regulation".

## 1.2. Media market

After two stunning years, in 2007 the media market started to consolidate while the tendency towards ownership concentration continued both at national and local level.

Major press holdings continued to release new products, although there were visibly less new media channels launched in 2007 compared to the years before. One notices the same tendency for editorial products as well. Also, the major press holdings continued to “swallow” the smaller fishes on the market, thus strengthening their position within the market. Such cases include the purchase of Pro Sport daily by Publimedia, the transfer of Mix radio network (25 licenses) to SBS Broadcasting, the purchase of DEEA radio station by Lagardere, the take over of TV Sport by SC Pro TV SA or the acquisition of new local media networks by EMI Deutschland GmbH.

In general, the market structure remained almost identical as last year, with three major press holdings continuing to dominate the market.<sup>8</sup> The only notable media release was the general TV station Kanal D owned by Turkish company Dogan. The station made good ratings almost exclusively as a consequence of the broadcasting of the first League football games after TVR lost the right to retransmit them from Telesport.

The trust oriented process increased the ownership concentration as the market pushed independent media entities in the arms of major groups both due to the need for cross promotion and especially for the access to advertising contracts. An example ascertaining the hypothesis that media entities need strong groups with diversified media supports in order to survive is the partnership between the strongest print group in Romania, Ringier, and Dogan group. Ringier purchased 25% of Kanal D shares at the beginning of 2007 before the release of the TV station.

The unbalanced advertising market - more than two thirds of the advertising goes to TV stations - is another factor contributing to this situation and making independent media entities to look for merges or partnerships with major groups. Ringier Romania General Manager Alexander Theobald confirmed this situation in a statement regarding the partnership with Dogan: “*We feel that a close connection between our publications and the television is highly beneficial. The second reason has to do with the way advertising budgets are divided and I believe it's no secret to anybody that the biggest share goes to television. Thus we discuss about a clear business opportunity at the same time*”.<sup>9</sup> One has to mention there are no regulations against the ownership concentration on various channels (cross concentration TV + radio + print media etc.) in Romania.

The TV ratings decreased in 2007. An apparent paradox, this decrease was accompanied by a substantial increase of TV stations incomes as the advertising market continued its ascendant trend of the last years. Print media circulation also dropped down on its turn, especially in what concerns the main national newspapers.<sup>10</sup> However, the decrease was compensated by the increased circulation of local newspapers. In exchange, the radio and the Internet had a significant audience increase and so did the advertising related incomes. According to [www.traffic.ro](http://www.traffic.ro) there were some 3.5 million unique visitors on the Internet in March 2007.

The advertising market continued to grow at the same fast pace. Some preliminary estimation from Initiative Media indicated it amounted to 485 million euro at the end of 2007, namely 34% more compared to 2006.<sup>11</sup> Two thirds go to television and around 20% to print media. According to the same Initiative Media study, the online advertising amounted to 8.7 million euro at the end of 2007.

The expansion of media market in the last years and the release of new editorial products resulted in a demand for qualified human resources the market was unable to meet. Thus, the labor market features a lack of balance between the supply and demand and there are alarmingly few skilled professionals. This lack of balance reflects directly and visibly in the journalistic products and their quality is obviously decreasing. One of the main media investors Sorin Ovidiu Vântu confirmed in an interview published by Capital magazine that “*The human resources are scarce, I need more staff which is increasingly difficult to find.*”<sup>12</sup>

One of the most controversial transactions on media market in the last years was the sale of

8 See the Report “Press Freedom in Romania, year 2006”, chapter “Media market” published by the Media Monitoring Agency - [www.freeex.ro](http://www.freeex.ro).

9 “Dogan and Ringier associated in Kanal D”, by Petrisor Obae, Evenimentul Zilei, January 25<sup>th</sup> 2007.

10 The audience and circulation of print media slightly increased in early 2008 - [www.brat.ro](http://www.brat.ro).

11 “Initiative Romania Survey: Advertising to increase 34% in 2007”, by , Hotnews, July 16<sup>th</sup> 2007.

12 “Inflation of Jobs on Labor Market”, Capital, January 31<sup>st</sup> 2007.



one of the strongest local radio networks (Radio Mix) to SBS Broadcasting by businessman and Head of Braşov County Council Aristotel Ciocanescu. Although on paper SBS purchased only 20% of Canet Radio SRL owning 25 of the licenses held by Ciocanescu, both his declaration and the one CNA President at that time, Ralu Filip, indicate the other 80% were transferred to a company SBS Broadcasting was also controlling. SBS used this type of acquisition in order to avoid the anti-concentration provisions in the audiovisual legislation. According to Ralu Filip, it was believed there were three cities whereby SBS became the owner of three licenses following the purchase of MIX network licenses. In Romania SBS owns TV station Prima TV and is also an important player on the radio market, as the owner of Kiss FM and Magic FM. Its direct competitor Lagardere, owning radio stations Europa FM and Radio 21 filed an appeal against this transaction after having tried on its turn to purchase MIX network. Lagardere submitted a complaint to CNA arguing the transaction was illegal due to a dominant position in influencing the public opinion at the national level allegedly gained by SBS as a follow up to the purchase (controlling more than the legally allowed 30% of the national broadcasting market). The Competition Council carried its own analysis and ruled that SBS Broadcasting was not in the dominating position on the radio market in Romania. Former MIX network owner Aristotel Ciocanescu accused Ralu Filip of having interfered in the transaction and having suggested him to sell the network to Lagardere.

Print media confronts a specific issue: the distribution system is "*primitive*" and major players are absent from this market. Print media editors confront difficulties in the retrieval of the money owed by distributors. A major problem is the insufficient penetration of print media, as the coverage fails to meet editors' expectations (i.e.: the rural area is insufficiently covered).<sup>13</sup>

By 2012 the TV stations should switch to digital broadcasting. Despite the short time, Romania is not prepared in terms of public policies or media investments (only few TV stations introduced digital broadcasting pilot systems), nor is it ready in terms of social communication (the population is unaware about the meaning of this change or the costs involved).<sup>14</sup>

Increased transparency of funding sources and of media ownership<sup>15</sup> as well as preventing media ownership concentration are still on the "*to do list*" that needs to be handled by the industry and the authorities.

13 "Media White Book III - Media Economic Issues", Media Monitoring Agency, September 2007 - [www.freeex.ro](http://www.freeex.ro)

14 *Ibidem*.

15 Off-shore companies still control shares in major media institutions. One of the shareholders of Realitatea-Ciavencu is Bluelink Comunicazione Ltd. based in Cyprus. In February 2006 Sorin Ovidiu Vintu admitted he was behind this company. In early 2008, Dan Diaconescu informed CNA that he had sold 20% of OTV shares to Magic Hand Ltd., another offshore company based in Cyprus. Diaconescu made controversial declarations about the person who was believed to control this company.



## 2. CASUISTRY

### 2.1 Attacks

On January 17<sup>th</sup>, two journalists from Monitorul de Cluj daily were attacked by three individuals while undertaking a documentation trip in Florești village from Cluj County. Photographer Marius Rus saw a scandal in the street and tried to capture it on camera. The three individuals became violent and tried to hit him. Reporter Andi Daiszler had his head broken and his face was wounded.<sup>16</sup> The three individuals ran when a police squad showed up in the area.

On February 16<sup>th</sup>, three journalists from Craiova were physically injured in Cerat village from Dolj. The attackers were a group of locals. The son of the local mayor was one of them. The journalists were gathering information about a fire that took place in the village one day before. The mayor had been seriously injured in the fire. Roxana Vișel, reporter from Ediție Specială daily said: *"We went to Cerat to report the fire (...). But the mayor's son Radu Burnea was waiting for us with a baseball bat. The mayor's relatives as well as some other people who were around became angry when they saw the cameras. They grabbed whatever they could and attacked us. All the three of us were beaten"*.<sup>17</sup>

On February 12<sup>th</sup>, Director of Monitorul de Bacău daily Stelian Ungureanu and the Deputy Editor in Chief Ramona Jitaru were attacked by the Mayor of Dofteana Village Costică Asaftei, the Deputy Mayor Mircea Balcanu and several Local Councilors.

According to the declarations of the two journalists,<sup>18</sup> they received a tip about a scandal involving Dofteana village mayor. The team from Monitorul de Bacău reached in front of Dofteana Police Station at the moment when the car where Mayor Asaftei was had been pulled over by Road Police Onești for a control. Upon identifying themselves, the journalists were attacked by the mayor and the other civil servants: *"I got to say 'We are from Monitorul' and the mayor hit me with his fist in the ear. I couldn't see what was happening, as the mayor and two other men attacked me and hit me with their fists and feet. They tried to pull my camera and they broke it. The mayor kept on hitting me and he was screaming to the others to kill us, not to let us get away alive"*.<sup>19</sup> Deputy Editor in Chief Ramona Jitaru also declared: *"I got out of the car and I saw the mayor hitting our director. He hit him with the fist in the ear. I didn't get a chance to react as I was attacked by the Deputy Mayor and another man who pushed me in a ditch and started hitting me. I tried to protect my head and my belly as they were hitting me very strong with their boots"*.<sup>20</sup>

The two journalists were taken to the Emergencies section of the hospital in Onești and then to Bacău. Ramona Jitaru had her foot plastered and several contusions while Stelian Ungureanu suffered an outer ear trauma.

Dofteana village Mayor Costică Asaftei denied all the accusations brought against him by the two journalists: *"This is an unsuccessful attempt to discredit me made by the people at Monitorul in cooperation with the police. [...] Monitorul has been blackmailing me for a week to make me enroll in the Democratic Party (PD) or else they would destroy me. [...] I didn't hit anybody, I only made a verbal protest against their attempt to take my picture and then I left home"*.<sup>21</sup> Also, Deputy Mayor Mircea Balcanu accused of having hit Ramona Jitaru with his feet declared: *"I never hit anybody. I cannot even use my leg to hit, I have prosthesis. I was passing by and I saw some people had started a fight. Somebody filmed me on camera and I submitted a complaint at the police, as they filmed me without asking for my permission"*.<sup>22</sup>

Onești Police opened criminal files for attack, violence and damages both for the Mayor and Deputy Mayor. Dofteana village Mayor had been subject to a series of articles published by Monitorul de Bacău on the disbursement of public funds and the sale in unclear circumstances of a castle belonging to Ghica family (the case is currently investigated by the National Anticorruption Department – DNA).

16 "People Are Mean and Discriminate Them", Azi, January 18<sup>th</sup> 2007.

17 "Three Journalists from Craiova Beaten on Duty", by Cristina Hurdubaia, NewsIN/ Cotidianul, February 17<sup>th</sup> 2007.

18 Statement of Stelian Ungureanu, published in Deșteptarea, "Journalists Beaten by Dofteana Mayor / Politically Justified Violence", Gabi Mihai, Cămin Bejan, February 14<sup>th</sup> 2007.

19 Statement of Stelian Ungureanu initially quoted in a press release issued by the two journalists and published by several dailies (see Adevărul, February 14<sup>th</sup> 2007, "Two Journalists from Monitorul de Bacău Attacked in Front of the Police"; Ziarul de Bacău, February 14<sup>th</sup> 2007, "Journalists Attacked by Dofteana City Halls Employees").

20 Declaration of Ramona Jitaru from the press release issued by the two journalists.

21 "Journalists Attacked by Dofteana City Halls Employees", by Alin Leanca, Ziarul de Bacău, February 14<sup>th</sup> 2007.

22 Ibidem.

However, the case didn't make it to the Court. One ti Prosecutor's Office decided not to press criminal charges against the Mayor and the other civil servants from Dofteana. Ramona Jitaru declared for the current report that the prosecutors didn't even call her for the hearings, although she was one of the plaintiffs in this case.

On April 7<sup>th</sup>, before Steaua-Dinamo football match, several FC Steaua supporters attacked Robert Cristea who worked as cameraman for the public television news team. The journalist found himself in the middle of an "*ultras*" group who tried to stop him from filming, hitting him with chains and partially damaging the camera.<sup>23</sup>

The public gendarmes were unable to protect the journalist doing his job in a public place. In fact, TVR cameraman directly accused them that "*they just stood and watched instead of intervening*".<sup>24</sup> The official position of Bucharest Gendarmerie was that the journalist failed to observe the recommendations and measures taken by them - he went amongst the supporters (a fact that is not recommended by the public gendarmes) and did so without informing the gendarmes about his intentions

On March 17<sup>th</sup> 2008, the Court identified supporter C t lin Iordan as the main attacker and sentenced him to one year in prison with suspension and to pay 20,000 RON (approx. 5500 euro) as moral damages to Robert Cristea.

The case that was to become the most well known of the attacks and insults against journalists in 2007 occurred on May 19<sup>th</sup>.

May 19<sup>th</sup> was the day when the referendum for the suspension of Romania's President Traian B sescu took place. That evening the President went shopping with his wife to one of the supermarkets in Bucharest. Numerous journalists accompanied them. As it was forbidden to film in the supermarket most journalists and cameramen stayed outside to wait for the Head of State. Reporter Andreea Pan from Antena 1 entered the supermarket and filmed the suspended President with her mobile phone. Many other shoppers around the President were doing the same thing. First, the President spoke to the reporter. After answering a series of questions, Traian B sescu asked the journalist to stop filming him. Andreea Pan stopped but she started filming again when he came out of the supermarket. Disturbed by this the President asked her: "*Say, pussycat doll, don't you have other better things to do today?*", then he grabbed the phone from her hand and refused to return it when she told him what he did was similar to stealing.

After taking the phone away from the journalist and put it into his pocket, the president didn't turn it off, thus the phone kept recording. Later that evening the phone was given back to the journalist by SPP employees (the Presidential Security Service). The journalists at Antena 1 noticed the records had been erased from the phone memory but not from the card. These recordings were broadcasted the next day and stirred a public scandal because after he got into the car Traian B sescu told his wife: "*This dirty gypsy was so aggressive...I don't know, Maria, but...she had it coming sooner or later...*"

The National Council Combating Discrimination (CNCD) took stand and sanctioned the President with a warning for using the phrase "*dirty gypsy*". The President appealed this sanction.

On July 2nd in Br ıla a cameraman from TV station ProTv was beaten while he was filming the members of an alleged group of usurers. They entered a house to retrieve a debt, but, due to the "*scandal*" that broke out, a police squad and a team from TV station ProTv arrived at the scene. While cameraman Gabriel Stoica was trying to film the house from the public domain one of the members of the group attacked him and hit him with the fists and the feet in the head and in the abdomen. Gabriel Stoica was taken to the hospital where he received medical care. According to the criminal file that was compiled, the journalist needed 7 days of medical care and the damages resulted from hitting the camera amounted to 400 RON (approx. 110 euros).<sup>25</sup>

23 "Gendarmes Say TVR Cameraman is Guilty for Going Amongst Supporters", Gândul, April 10<sup>th</sup> 2007.

24 Ibidem.

25 "ProTV Cameraman Attackers - Sent to Court by Braila Prosecutor's Office", by Sorin i ei, Gândul, July 4<sup>th</sup> 2007.

More than 1,500 supporters attended a meeting against the draft bill aimed at punishing violence on stadiums and proposed by the Head of the Professional Football League (LPF) Dumitru Dragomir. Three photo reporters were attacked by the supporters during the march. Two of the photo reporters from Mediafax and Prosport were pushed and cursed, and the third, Mircea Reste from Cotidianul was hit with the fist in the face: *"Immediately after passing by Pia a Victoriei, one of the supporters pushed me, and then I went back in the march. I started taking photos of him, he saw that, he came to me and he hit me with the fist in the face, broke my lip and then he was cheered by the others in the group"*.<sup>26</sup> That respective supporter, Lauren iu Stemat, denied having hit the photo reporter with the fist, but admitted he pushed and spitted him because he was taking pictures of him.

On September 11<sup>th</sup>, Mayor of Salsig village in Maramure County Florian Luca treated rudely a team of journalists from TV station Axa Tv headed by Ioan Ro iianu, reporter Andrei Negoii and cameraman Bogdan Pocol. Ioan Ro iianu declared for this report that the Mayor *"tried to grab my microphone, was rude and pushed me, then he hit cameraman Bogdan Pocol in the right knee with his car"*. According to Ro iianu, in order to get rid of the journalists *"the mayor got into the city hall car, revved up the engine, speeded away, took a short turn to left and hit the cameraman who continued to film"*.<sup>28</sup> The journalist caught the scene on tape. Various witnesses including Maramure County Council Vice-president Emil Marinescu saw the incident.

The three filed a complaint to the police and Police Inspectorate Maramure took over the case.

On September 19<sup>th</sup> two journalists from daily newspaper Hunedoreanul (Deputy Chief Editor Ovidiu Petrovai and Photo Reporter Doru Nic ) were pushed by Deva Theater Director Nicodim Ungureanu on the hallway of the theater. They wanted to ask him about his position regarding a control carried at the theater by the Territorial Labor Inspectorate Hunedoara. The director attacked photo reporter Doru Nic , pulled his camera and tried to take it away from his neck, arguing he doesn't want his picture taken. Upon the insistence of the Deputy Chief Editor urging him to express his position regarding the control performed by Territorial Labor Inspectorate, the director pushed him on the stairs in the hall of the theater.<sup>29</sup> There were no witnesses to this incident, only the photos taken by photo reporter Doru Nic and an audio recording made by the Deputy Chief Editor.

On November 17<sup>th</sup> prior to the football game between Bulgaria and Romania, Dinamo supporters who went to Sofia attacked the journalists from Antena 3 who accompanied a bus carrying 50 of the supporters. Antena 3 correspondent Lauren iu R dulescu was hit in the face with the fist by Dinamo supporters. He declared: *"50 km before Sofia the bus carrying Dinamo supporters pulled over. We stepped down too and then several people surrounded us and one of them hit me"*.<sup>30</sup>

This wasn't the only incident. Dinamo supporters also cut one of the tires of the car Antena 3 team was traveling in. *"They kept asking us not to film them, but we didn't accept that. They wanted to make themselves understood"*,<sup>31</sup> Lauren iu R dulescu added.

The leader of Dinamo supporters Elias Bucuric denied the incidents saying that *"nothing happened. We were always accompanied by gendarmes"*.<sup>32</sup>

On December 5<sup>th</sup> American journalist Chuck Todaro was cut with a knife by two people while undertaking a documentation trip in Vaslui town Tei oru. *"I was with the head of Roma community in Tei oru when at some point the two stopped me from my way. After I explained what I was doing there, they tried to take my agenda and camera away. I refused to give them. [...] Then they started hitting me and when they realized I am not giving in one of them took out a hunting knife and tried to stab me in the chest. I had the reflex to defend myself with my hand, thus I got cut pretty bad and I fell down. Knowing to what kind of danger I was exposed to, I jumped on my feet immediately and I*

26 "Hooligans Screaming for One's Right to Hit", by Dorin Petri or, Viorel Dobran, Cotidianul, September 10<sup>th</sup> 2007.

27 Ibidem.

28 Also from Ioan Romeo Ro iianu's declaration for this report.

29 "Fist Theatre", by Ovidiu Petrovai, Gazeta V ii Jiului, September 21<sup>st</sup> 2007.

30 "Journalists Attacked by Dinamo Fans", by Marius M gprit, Viorel Tudorache, Gazeta Sporturilor, November 18<sup>th</sup> 2007.

31 Ibidem.

32 Ibidem.

*hid in the house of a local*<sup>33</sup>; the American journalists declared for Mediafax news agency. Police succeeded to catch the two offenders and got the journalist's assets back.

## 2.2. Threats and insults

On June 18<sup>th</sup> President Traian B.ăsescu was spending time with his wife on the seashore in Mamaia summer resort. Shortly after the presidential couple showed up on the main walking alley, hundreds of tourists surrounded them. The tourists were allowed to approach the President, but local media correspondents, cameramen and professional photographers were asked by the Protection Service to step away.

As the journalists persisted in following the presidential couple, President B.ăsescu told his wife: *"Unbelievable, they are incredibly rude. This is my spare time"*. The President was not on his official holiday, he just moved his residence during summer time.

On June 21<sup>st</sup> Evenimentul Zilei disclosed that Iasi Mayor Gheorghe Nichita, who was the subject of a critical article published in the regional Moldova edition, called reporter Cezar P. durariu on the phone and threatened him, howling: *"If you pick on my family again, I'll break your head, you punk!"*<sup>34</sup> Gheorghe Nichita also called Moldova edition coordinator Sabin Orcan and accused him of having been sent to Iasi to compromise him. He threatened the journalist: *"Never mind, dude, I'll take care of you, too!"*<sup>35</sup>

On July 11<sup>th</sup>, during the break of a football game played by F.C. Politehnica Iași football team, the coach Ionu. Popa verbally abused the journalists watching the game sitting nearby the reserve bench: *"And what are you doing here? Get the f... out of here! This is no place for you people! Out! After I let you watch the game now you're all over me? Get the f... out of here!"*<sup>36</sup> In a raging outburst Popa destroyed the tripod of a cameraman from TVR Iași. He apologized after the game: *"You know I have a temper! [...] You want me to apologize?! There, I apologize. Is it OK now?!"* Popa also apologized to TVR team and accepted to cover the cost of the tripod repair.

On October 4<sup>th</sup> 2007, President Traian B.ăsescu once again insulted media representatives. While attending the inauguration ceremony of a factory from Ilfov County, the President was approached by Antena 3 reporter Sorina Matei who asked him if, upon his return to Bucharest, he was to make a declaration upon the motion of censure denied to him by the Parliament. The President answered: *"Of course, I'll come right to your office and we will do it"*<sup>37</sup>

On October 24<sup>th</sup> Craiova Mayor Antonie Solomon cursed and threatened local TV reporter Arthur Andrioi. The journalist asked the mayor to permit the access of a team from Tele U TV station to a meeting taking place in the building of "Oltenia" philharmonic orchestra. He was granted permission to film the meeting, but when the reporters came to the event, their access was denied. When the journalist called the mayor again, the latter started to curse and threaten him: *"I'll catch you and beat the hell out of you! Just wait and see what I'll do to you from now on, you hear me? I'll kick your ass when I'll put my hands on you! You freakin' punk!"*<sup>38</sup>

On December 3<sup>rd</sup> Social Democratic Party (PSD) Senator Ion Vasile told a photo reporter taking his picture: *"You should give me your underwear for me to take a picture one day. I am curious, you know"*. The incident occurred in the yard of PSD headquarters in Bucharest.

33 "American Journalist Documenting in Vaslui County Stabbed with the Knife by Two Roma Men", by Teodor Istrate, Mediafax, December 6th 2007.

34 "Politicians Losing It", by Ionela Luchian, Evenimentul Zilei, June 21<sup>st</sup> 2007.

35 Ibidem.

36 "Coach Ionu. Popa Kicked TVR Tripod", by Gabriela Dobo, Gândul, July 13<sup>th</sup> 2007.

37 A.N., Hotnews, October 4<sup>th</sup> 2007.

38 Mediafax, October 25<sup>th</sup> 2007.



## 2.3. Pressures made by authorities. Political and economic pressures

Reporter Romulus Dub from local newspaper Adevărul de Arad owned by Inform Media Group published in early February several critical articles upon the Arad Mayor Gheorghe Falcă. Shortly after, the journalist was informed by the newspaper management that he was to leave the editorial body as his position had been restructured. Dub argued he was not presented the evaluation resulting in the restructuring of his position and mentioned another staff appraisal conducted only weeks before and ranking his activity as one of the top three in the entire network of newspapers owned by Inform Media. The journalist claimed the decision made by the management was a direct consequence of the articles he published about Mayor Gheorghe Falcă. Alexandru Seres, former Editor in Chief at Adevărul de Arad during that time said there was no connection between the restructuring and the publishing of those respective articles, but that the decision was determined by professional and disciplinary matters.

Curentul daily on March 20<sup>th</sup> 2007 published an article upon the abusive clauses in the advertising agreements imposed by the biggest land line telecom operator in Romania - Romtelecom - and its media buying agency S.C. Mediacom România S.A. One of the said clauses seriously limited the editorial independence of the newspapers publishing Romtelecom advertising, by banning any action likely to have a negative impact upon the image of the company: *"The PROVIDER (media institutions) guarantee the BENEFICIARY (Romtelecom) they won't undertake or authorize any action during or related to the provision of the Services laid down in this Frame Agreement that is likely to violate the right to its own image of the final beneficiary of the Materials. Additionally to the above mentioned provisions, if the Provider infringes in any way the image of the final beneficiary of the Materials submitted by the BENEFICIARY, Provider shall undertake, besides the other instructions transmitted by the BENEFICIARY, any necessary measures to amend the subsequent effects on its means and at its expense (including but without limiting at the publishing of any necessary correction<sup>39</sup> etc.)"*.

Romtelecom expressed its point of view upon this clause arguing *"the contractual clause is by no means a limitation of the right to free expression"*. The company said *"the obligation (...) of the service provider (media institution - author's note) not to undertake or authorize any action during or related to the provision of the Services that is likely to damage Romtelecom image is absolutely normal"*.<sup>40</sup> According to them, the clause doesn't prevent the media right and freedom to publish articles on Romtelecom, but only *"in case they published inaccurate information likely to damage Romtelecom image"*.

On March 27<sup>th</sup> TV Gala i Director Florin Pâslaru interrupted the broadcasting of the talk show *"Evening thoughts"* hosted by Sorin Ioni. The show had two guests, two leaders of Solidaritatea Trade Union having as members more than 7,000 employees from Mittal Steel Gala i. The topic was the union's claims. Although Mittal Steel Gala i Senior Manager Ionel Borș was invited to attend the show, he refused. However, he urged TV Gala i Director to stop the broadcasting and the latter did so. Florin Pâslaru subsequently justified his gesture arguing that *"all the media in Gala i makes a buck on Mittal Steel"*<sup>41</sup> and that his TV station might have lost its office space upon Borș intervention. Several days later Florin Pâslaru promised he would bring a representative of Mittal Steel management to attend a show, but then he changed his mind and didn't allow Solidaritatea leader Gheorghe Tiber to be on air. The TV show host informed the National Council of Audiovisual (CNA) representative in Gala i - Brăila Inspector Roberto Iacomi, but the inspector refused to get involved in this case. He was subsequently dismissed by CNA.<sup>42</sup>

Solidaritatea trade union members complained that media institutions in Gala i don't report their position accurately and that they are insufficiently critical towards Mittal Steel management.<sup>43</sup>

On April 19<sup>th</sup> Civic Media organization lead by journalist Victor Roncea joined a petition

39 „Romtelecom Buys Media Silence”, Curentul, March 20<sup>th</sup> 2007.

40 Ibidem.

41 See *"Mittal Steel Galati Management Bans Two TV Shows"*, by Sorin Ioni, Gândul, March 29<sup>th</sup> 2007.

42 See *"Mittal Steel Galati Management Bans Two TV Shows"*, by Sorin Ioni, Gândul, March 29<sup>th</sup> 2007; MediaSind Press Release, April 4<sup>th</sup> 2007 - [www.mediasind.ro](http://www.mediasind.ro).

43 See MediaSind Press Release, April 4<sup>th</sup> 2007 - [www.mediasind.ro](http://www.mediasind.ro).

supporting President Traian Băsescu and signed by several nongovernmental organizations. The petition was released on the day when the President got suspended by the Parliament, an event seen by the signatories of the petition as a "*genuine coup d'état*" believed to be aimed at "*the taking over of the Romanian state by groups of political and economic interests upon the suspension of the President of Romania*".

On April 20<sup>th</sup> Roncea was informed by Sorin Roșca Stănescu, the director of Ziua daily, that he was to leave the editorial office due to the fact he had signed the pro-presidential petition that included points of view different from the newspaper editorial policy. According to Roncea's declarations, he was required to resign "*as a solution to separate 'without a fuss' and with a potential view to be employed by another newspaper from Sorin Ovidiu Vintu's Trust [Realitatea - Ca avenu] that plays the charade of supporting Traian Băsescu, namely Cotidianul*".... I was also informed that if I didn't obey it would be impossible for me to work as a journalist as there is a secret agreement of the 'Media Moguls Cartel' on the media market. As I didn't give any sign of 'compliance', I was turned into the black sheep of the editorial body, my articles were censored and those published in the newspaper were previously approved by Roșca Stănescu personally. Subsequently, when I didn't accept the invitation to voluntarily resign I was informed via intermediaries that the newspaper's lawyers will make me leave".<sup>44</sup>

Victor Roncea's point of view was published entirely in Ziua daily and was followed by an answer from Sorin Roșca Stănescu revealing the reasons behind the conflict. Amongst these he mentioned the increasingly active involvement of Roncea within Civic Media activities to the detriment of the newspaper business as well as the lack of separation between these two activities which damaged Ziua newspaper image. "*I told Roncea we should normally separate. And I asked him to think if it wasn't better for him to devote himself to Civic Media for a while. When he replied he wouldn't make enough money under such circumstances, I said I could pull some strings to get him to work for another paper where his ideas would be a better match to the others*".<sup>45</sup>

Eventually the conflict was settled and Roncea continued to work for Ziua.

Dan Voiculescu, high profile politician, businessman and former owner of one of the strongest media groups in Romania (currently chaired by his daughter) had a direct intervention in the Daily News show broadcasted by Antena 3 on May 2<sup>nd</sup>. Antena 3 is part of the media group chaired by Dan Voiculescu's daughter. The guest of the show that evening was former Ministry of Justice Monica Macovei. Voiculescu called on the show and accused her of "*hypocrisy*", "*talent for drama playing*" and called her "*Ceausescu times prosecutor*". "*Yes, Mrs. Macovei. It is my great pleasure to insult you, because you orchestrated such a drama...*" Voiculescu added.<sup>46</sup> When the host of the show tried to mitigate Dan Voiculescu attacks, the latter reprimanded her: "*I wish you all the best, Mrs. Gabriela Vrâncăanu Firea, to you and to your freakin' guests*".

The National Audiovisual Council (CNA) took note and sent an open letter to Antena 3 TV station, expressing their 'concern' towards Dan Voiculescu intervention. According to the letter, "*When Mrs. Firea tried to moderate the discussion and to observe the 'rules of the game' provided by the audiovisual legislation, Mr. Dan Voiculescu reprimanded her in a tone and a language that are inappropriate for the public sphere and that raise a major question mark about the relations between the management and the editorial staff*".<sup>47</sup> CNA considered this intervention "*affects the editorial independence of Antena 3 and violates freedom of expression itself*".

On September 26<sup>th</sup> 2007, DIICOT (Organized Crime and Terrorism Investigation Board) dropped the criminal charges against journalists Sebastian Oancea and Marian Gârleanu, the two Vrancea based reporters accused for holding and disseminating classified information. The decision was rendered one year and seven months from the beginning of the criminal investigation and the media and human rights organizations vehement protest against these accusations.<sup>48</sup> DIICOT dropped any criminal charges against the two journalists, but sentenced them to pay administrative fines amounting to 800, respectively 900 RON (approx. 220, respectively 250 euros) for infringing national

<sup>44</sup> www.civicmedia.ro.

<sup>45</sup> "Roncea Case", Ziua, April 24<sup>th</sup> 2007.

<sup>46</sup> Daily News, Antena 3, May 2<sup>nd</sup> 2007.

<sup>47</sup> Open letter to Antena 3 - www.cna.ro.

<sup>48</sup> Media Monitoring Agency "Press freedom in Romania, year 2006" - www.freeex.ro.

security law (Law 51/1991) as well as to pay trial expenses amounting to 1,920 RON each (approx. 530 euros). Sebastian Gârleanu appealed the decision.

On October 10<sup>th</sup> 2007, the Romanian television opened its main news bulletin at 19.00 hrs. with the headline "*Ministers Watched*". The speaker introduced the news stating that TVR presents: "*the images that prove according to anti-corruption prosecutors that Agriculture Minister Decebal Traian Reme took bribe*". The footage broadcasted by the public TV station showed former Agriculture Minister Ioan Mureșan handing an envelope believed to contain money to the current Agriculture Minister Decebal Traian Reme. The images caught on hidden camera showed the two talking in a coffee shop. The footage also included a record of a phone conversation between the two. According to the record, they were talking about fixing the result of some tenders.<sup>49</sup> During the first airing, TVR displayed the headline "*Caught in the act*". The news report did not include the point of view of the two politicians involved; according to the editorial body the attempts to contact them were unsuccessful. At the end of the news bulletin Ioan Mureșan contacted the editorial office and made a live statement, denying the envelope contained money. He also complained about the Justice being made on TV.

TVR didn't reveal the source of the record, but the transcript of the footage had already been published days before by a news agency and by print media. Also, according to the declaration of TVR News Department Director Rodica Culcer, the footage that was broadcasted was not edited, but aired in the form TVR received it. The same evening TVR announced that the next day it would broadcast another video record with Ioan Avram Mureșan. Immediately after the first footage was broadcasted, Decebal Traian Reme issued a press release protesting against the broadcasting of that respective record and asking the President General Director of TVR to take measures. Prime Minister Călin Popescu Tăriceanu also criticized TVR for broadcasting that respective footage: "*The journalistic coverage indicates serious ethical deficiencies of the public television staff*"<sup>50</sup>

National Anticorruption Direction Chief Prosecutor Daniel Morar as well as President Traian Băsescu denied the images were leaked of their institutions, as these were the only ones having official access to the file. On October 11<sup>th</sup> Reme resigned his Agriculture Minister position. The Magistrates Superior Council started an investigation in order to identify the persons responsible for the leak of these judicial evidences to the press.<sup>51</sup>

Also on October 11<sup>th</sup>, next day after the first record had been broadcasted, TVR announced they will no longer air the sequel due to an internal memo signed by TVR President General Director Alexandru Sassu. In that memo Sassu argued the broadcasting of the audio and video records with the discussions between Reme and Mureșan is not "*fair, legal and appropriate*". However, on the previous day, when the first record had been broadcasted, Sassu said he agreed with the airing of the first part of the footage and that the only problem he identified in relation to this was "*a moral one*", namely "*(TVR) involvement in a political battle*".<sup>52</sup>

Media Monitoring Agency and the Romanian Helsinki Committee (APADOR-CH) deemed the gesture of TVR President General Director as censorship.<sup>53</sup>

Rodica Culcer protested against this decision by sending on October 12<sup>th</sup> a written request to TVR President General Director, urging him to agree to air the other records due to the obvious related public interest.

TVR Ethics and Arbitrage Commission intimidated by Alexandru Sassu considered the broadcasting of the record on October 10<sup>th</sup> was justified due to the "*indisputable public interest*", but found several professional errors and violations of TVR Journalist Status occurred. Amongst these, the Commission report mentioned that the footage was not accompanied by a disclaimer that TVR "*is unable to guarantee the authenticity of this footage, doesn't take responsibility for its editing and cannot certify the subtitles and other writings are accurate, as all these were not produced by TVR*". The Romanian Press Club also discussed the case and concluded the Ethical Code was not literally violated, but that "*the News Department committed some professional errors that damaged TVR prestige and credibility, but didn't impair the truthfulness and the message of the*

49 The images broadcasted by TVR are available on [www.youtube.com](http://www.youtube.com).

50 [www.mediafax.ro](http://www.mediafax.ro).

51 On March 26<sup>th</sup> 2008, the Magistrates Superior Council released the conclusions of this investigation. It failed to identify the person directly responsible for the leak: "*We were unable to identify beyond reasonable doubt the person that copied and gave away the audio-video record to third parties, thus violating the confidentiality of classified files. The only certainty is the footage could have been copied both at the Technical Department and within DNA central headquarters*". - [www.csm.ro](http://www.csm.ro)

52 Declarations made by Alexandru Sassu in Adevarul newspaper, October 13<sup>th</sup> 2007.

53 "*MMA Protests Against TVR Serious Censorship*", October 11<sup>th</sup> 2007 - [www.mma.ro](http://www.mma.ro); "*APADOR-CH Position Regarding the Disclosures on Former Minister Decebal Traian Reme*", October 12<sup>th</sup> 2007 - [www.apador.org](http://www.apador.org).



report they broadcasted"<sup>54</sup>. CRP considered the internal memo signed by Sassu who urged the video sequel not to be aired was "a form of pressure".

Only several days later, on October 14<sup>th</sup>, TVR management decided to reorganize the News Department, dividing it into two distinct departments - a news department and a sports department - and to organize competitions to fill the vacant management positions of these departments. The management of the Department remained unchanged and Rodica Culcer kept her position. However, according to the new organizational chart, she lost all the editorial duties that were transferred to the two smaller departments and kept solely management duties. The new Department Interim Manager M d lina R dulescu decided to transfer several people who were close to Rodica Culcer from the main news bulletin to the night news or the regional news bulletin. Many of these persons were involved in the broadcasting of the Decebal Traian Reme footage. In a public declaration made on October 16<sup>th</sup>, Rodica Culcer complained about the political pressures in TVR.<sup>55</sup> At the beginning of 2008, Rodica Culcer sued TVR for violation of her labor contract provisions.

#### · Public television

The storm around the dismissal of the former TVR President General Director (PDG) Tudor Giurgiu started in February when TVR lost the rights for broadcasting the First League football games to the newly established Kanal D. Rights holder Telesport TV station declared they annulled the contract because TVR failed to make the due payments. TVR started an internal investigation that resulted in sanctions in relation to the loss of the contract: Ioan Todan was relegated from the position of Sports Department Director and Sports Editor in Chief Vlad En chescu and TVR Financial Director Cipriana Voicu were sanctioned. The incident revealed the financial problems confronted by TVR at that time, also confirmed by Cipriana Voicu during a Board meeting ("*We didn't have money. The salaries were more important.*").<sup>56</sup>

Starting from this situation, Jurnalul Na ional began publishing a series of articles accusing Tudor Giurgiu of poor management. Giurgiu was also accused of conflict of interests and of transferring funds from the television to various companies controlled by his spouse. One of these was Transilvania Film which was one of the main film providers for TVR.

In early March Tudor Giurgiu denied the financial problems, but he said he wanted the radio-TV tax to rise from 4 to 6 RON per month to avoid the situations when TVR functioned with "*austerity budgets*". He admitted there were management errors, including the emphasis he put on the editorial reform and the neglecting of the institutional reform. Giurgiu also announced an upcoming massive restructuring process by voluntary termination of the labor contract and collective dismissals.

On March 7<sup>th</sup> during a hearing at the Senate Commission for Culture, Arts and Mass Media, TVR Financial Director Cipriana Voicu admitted there were losses amounting to 13 million RON (approx. 3,600,000 euros) in 2006 as well as debts amounting to 10 million RON (approx. 2,800,000 euros)<sup>57</sup>. The President General Director justified these results in the context of TVR massive investment for technological upgrades and programs as well as by the fact that TVR made some payments in premiere to the National Cinematography Fund and the royalty unions (covering also the previous years due payments) and it also paid the recently introduced VAT for purchasing movies. Giurgiu also referred to the high cost of extra hours and bonuses for the staff amounting to an annual 15 million euro, the equivalent of 260 employees' salaries.

Another conflict stirred in the same period was the one between Tudor Giurgiu and News Department Director Rodica Culcer. Giurgiu mentioned the potential dismissal of Culcer, accusing her of various management related problems and of having expressed her political views in various newspapers, as he considered these opinions affected the credibility of TVR news.

<sup>54</sup> CRP press release - [www.pressclub.ro](http://www.pressclub.ro).

<sup>55</sup> [www.realitatea.net](http://www.realitatea.net).

<sup>56</sup> "TVR Is Bankrupt", by Dana Andronie, Jurnalul Na ional, March 1<sup>st</sup> 2007.

<sup>57</sup> "TVR Faces Losses"; by Floriana Scănteie, Evenimentul Zilei, March 8<sup>th</sup> 2007.

The conflict arose after Ion Iliescu and Premier T. Riceanu accused TVR management for the refusal of the News Department to grant Iliescu the right to reply. Culcer was rated 6 in her bi-annual appraisal after getting 9 in the two previous performance assessments. At that time Rodica Culcer complained of political interventions, mentioning they don't occur in the editorial office, but in the Board, whereby: "There wasn't a single moment in the TVR Board meetings when PSD and especially PNL people didn't criticize the news, didn't comment on the news content. They don't have any responsibility in this respect!"<sup>58</sup> There were several press references regarding an agreement between the Liberal Party (PNL) and the Social Democratic Party (PSD) targeted at the News Director dismissal.

Following the hearings at the competent parliamentary commissions when several Board members criticized his activity, on May 4<sup>th</sup> Tudor Giurgiu resigned his President General Director position. The Culture, Arts and Mass Media parliamentary commissions held a joint session on May 8<sup>th</sup> and rejected the TVR annual activity report, although TVR report on 2005 hadn't been discussed or voted by that time. On the 23<sup>rd</sup> of May the Parliament sat on plenary session and rejected on its turn TVR report on 2006, making sure this time they also debated and passed by vote the report on 2005 as well. According to the law of public broadcasting services if the annual report is rejected by the Parliament, the Board of Administration is automatically dismissed.

After the Board was dismissed, the politicians started the negotiations for appointing new Board members and for the election of the new President General Director. This process described in detail under the chapter dedicated to CNA unfolded in parallel with the election of the new CNA President, thus the political agreements and barter behind the scene between PSD and PNL resulted in the new management structures of CNA and TVR. The Parliament voted the new Board of Administration members on June 18<sup>th</sup>, but the appointment of the new PDG was chaotic due to backstage negotiations between the Social Democratic Party (PSD) and the Liberal Party (PNL) and the dissensions occurred between these parties in the "sharing" of the two institutions: CNA for PNL and TVR for PSD. These negotiations ended with the appointment of Alexandru Sassu as Interim PDG in late June; he was confirmed in September. The Presidency warned upon these backstage negotiations: "The President of Romania urges PNL and PSD leaders as well as the Presidents of the two Parliamentary Chambers to give up such practices that only weaken the institutions by distorting the procedures as some people please and making democracy look like a joke".<sup>59</sup>

The new Board had members close to high level politicians, such as Vlad Velcu, Personal Advisor within the Prime Minister Chancellery or R. Zvan Barbato, Commercial Director at Intact Production, one of the companies within the media group owned by Voiculescu family (Dan Voiculescu is the leader of the Conservative Party). Also in premiere, a politician was appointed to take over the management of the public television - Alexandru Sassu, Deputy and former PSD Executive Secretary. Upon his appointment in the new position, Sassu resigned PSD and all the related duties. This is the first time in the history of the public television when the institution is lead by a politician.

#### • Changes in the management of the National Audiovisual Council (CNA)

The political influence was also felt in the appointment of a new CNA President after the death of former President Ralu Filip in May.

The Social Democratic Party (PSD) proposed Valentin Nicolau to replace Ralu Filip as CNA member. A former President General Director of TVR between 2002 and 2005, Nicolau subsequently managed Antena 2 TV station and became a member of the Conservative Party. When he was nominated, he was the owner of Smart FM radio station and in charge with the development of

58 "Giurgiu and Culcer Fight for 'Too Much Politics'", by Costi Rogozanu, Cotidianul, March 5<sup>th</sup> 2007.

59 Press release issued by the Presidency, June 27<sup>th</sup> 2007 - [www.presidency.ro](http://www.presidency.ro).

Lagrudere television projects. At that moment, Valentin Nicolau made declarations<sup>60</sup> indicating he had already been promised CNA presidency: *"I came to CNA with something on my mind, I wanted to continue Ralu's project, not to dance around"*.<sup>61</sup>

The existence of previous agreements between the parties on CNA management was confirmed by the subsequent events. The appointment of Ralu Filip's successor overlapped with the appointment of the new TVR Board after the Parliament dismissed the previous one. The entire media reported the backstage negotiations between the Liberal Party (PNL) and the Social Democratic Party (PSD), these two parties having allegedly shared the management of the two institutions - PSD was to control TVR via Alexandru Sassu whereas PNL was to control CNA via Rasvan Popescu. This agreement however canceled the initial plans of PSD to appoint Valentin Nicolau as the CNA President. According to national media, PNL feared PSD would force its way into CNA management as well. Thus, on June 27<sup>th</sup> PNL blocked the joint parliamentary session for the appointment of the new TVR Board, including the confirmation of PSD representative Alexandru Sassu as TVR PDG.

In parallel, CNA voted a change of that day agenda and introduced on it of the election of the new CNA President. As a protest against these backstage arrangements between PSD and PNL, on June 27<sup>th</sup> Valentin Nicolau resigned CNA. Nicolau said to the press the change of CNA meeting agenda was a *"political order"*.<sup>62</sup> *"There is a procedure to be observed in the election of the President. It's not normal to rush up things. But this is what happens when people are blackmailed, when pressures are being made upon an institution pretending to be independent"*.<sup>63</sup> On July 4<sup>th</sup> Valentin Nicolau granted an interview to Academia Ca avencu and complained about *"political barter"*.

Sources in the political arena confirmed on their turn the backstage political agreements. Thus, Cotidianul quoted a PNL leader who declared anonymously: *"I don't understand why some hide, especially that it was agreed some time ago in the entire Parliament that TVR goes to PSD and CNA to PNL. I don't understand why PSD doesn't comment, since at that time they also agreed to the division of the positions according to the algorithm"*.<sup>64</sup>

Another CNA member, Gelu Trandafir, declared for NewsIn news agency: *"There are grounded fears regarding the political dimension of the audiovisual. There are solid evidences pointing out an agreement between PSD and PNL for the bulk vote of TVR and CNA presidents which can lead to the political subjugation of both institutions. This proves contempt to the members of TVR Board and to CNA members. They are treated simply as a voting machine by two political parties"*.<sup>65</sup>

The media also reported about the pledge made to CNA members by the President of the Chamber of Deputies, liberal Bogdan Olteanu who promised to increase the length of CNA members' mandates to 9 years from 6 in exchange for their votes for R şvan Popescu.<sup>66</sup>

In order to prevent a situation similar to the one on June 27<sup>th</sup> when the lack of quorum blocked the vote for TVR and CNA leading structures, on June 28<sup>th</sup> the Parliament decided to appoint interim directors for the two institutions - R şvan Popescu at CNA and Alexandru Sassu at TVR. This solution was also disputed, as the Audiovisual Law doesn't have any provisions on CNA Interim President (the Vice-president of the institution takes over the presidential duties in case the latter is absent). Eventually, they decided R şvan Popescu would remain CNA Interim President by October 1<sup>st</sup> and Vice-president Atilla Gasparik keeps his right to sign official documents on behalf of CNA. The appointment of CNA and TVR new management structures was postponed for September. The legal situation at TVR was also rather unclear, as Tudor Giurgiu had already been appointed TVR Interim President by the time a new President General Director was appointed.

On September 12<sup>th</sup> the Parliament put an end to the two interim mandates and confirmed the two above mentioned candidates in the positions they were holding since June. In the same session the Parliament also voted for the appointment of director Ioan C r m şan to replace Valentin Nicolau as CNA member and for the set up of a parliamentary commission to investigate TVR activity during Tudor Giurgiu's mandate.

60 Gardianul, June 14<sup>th</sup> 2007.

61 Gândul, June 28<sup>th</sup> 2007.

62 Cotidianul, June 28<sup>th</sup> 2007.

63 Gândul, June 28<sup>th</sup> 2007.

64 Cotidianul, June 28<sup>th</sup> 2007.

65 www.newsin.ro.

66 This proposition resulted in a bill aimed at amending the Audiovisual Law. It was passed by the Senate Commission for Culture, Arts and Mass Media in September. Eventually, the Senate denied these amendments in plenary session, after protests from the press and the media organizations. See the "Legislation" chapter.

## 2.4. Access to public interest information

Football club Universitatea Craiova banned the access of local newspapers Gazeta de Sud and Expresul de Sud to the press corner and the presence of the photo reporters on the game field in the first part of 2007. The ban was justified by the discontent of club officials regarding the way the two newspapers reported Club activities. Press accreditation on stadiums is not regulated by a special law, but by the Disciplinary Regulations of the Romanian Football Federation. The situation was subsequently settled as the Club gave up this abusive measure.

TV stations Antena 1 and Antena 3 were denied accreditation at the ceremony on May 23<sup>rd</sup> 2007, when President Băsescu was reconfirmed in his function.

The two stations claimed they sent the accreditation requests via fax around 17.30 hrs. The ceremony was announced for 19.00 hrs. The Safety and Protocol Service denied the access of the crew sent by the two stations within Cotroceni Palace premises, arguing they didn't receive any accreditation request from the two stations.

On May 2007, Bucharest Tribunal compelled the Romanian Post Office Company to provide Media Monitoring Agency (MMA) the information the latter had requested based on the free access to public interest information law.<sup>67</sup> MMA sued the Romanian Post upon its refusal to publicly reveal the media advertising contracts implemented or concluded between January 2006 and February 2007.<sup>68</sup> MMA also requested information about the purpose of the contracts, the criteria used for awarding those respective contracts, the number of proposals received, the name of the winning bid, the price paid and the contract execution period.

The request was submitted by MMA as a follow up to the enforcement of an amendment brought to Law 544/2001 by Law 371/October 2006.<sup>69</sup> The amendment enlarges the enforcement area of the law to *"any public authority or institution using or managing public financial resources, any autonomous board, national company as well as any commercial company under the authority of a central or local public authority and in which the Romanian state or, according to the case, an administrative-territorial unit, is the sole or the majority shareholder"*.

The Post Office Company refused to offer the information based on the non-retroactivity of the law and argued the law was passed on October 14<sup>th</sup> 2006 that being also the enforcement starting date. The Post Office Company also argued that all the advertising contracts concluded before October 1<sup>st</sup> 2006, when the Emergency Ordinance 34/2006 amending the public procurement law came into force, were commercial agreements and not public procurement contracts.

Also, the Romanian Post Office Company justified its refusal to provide the requested information by the existence of Court litigations pertaining to certain advertising contracts. Therefore, it would have been damaged by the disclosure of the said information.

Nevertheless the Court dismissed the arguments presented by the Romanian Post Office Company and ruled the institution was to provide the information required by MMA.

The Romanian Post appealed this decision, but the Appeal Court in Bucharest denied the appeal on February 25<sup>th</sup> 2008 and compelled the Post Office Company to execute the decision rendered by Bucharest Tribunal.

On August 7<sup>th</sup> 2007, Timișoara Mayor Gheorghe Ciuhandu suspended the accreditation of journalist Mălin Bot for the *"publishing of biased articles"* about him in Evenimentul Zilei - West edition. The journalist appealed against the mayor's decision in Court on the grounds of violation of Law 544/2001 regulating the access to public interest information, including the press accreditation with public institutions and providing that one's accreditation cannot be suspended based on the contents of one's articles. Timiș Tribunal ruled in favor of the journalist and compelled the mayor to pay 1,000 RON (approx. 280 euros) as moral damages for abusive suspension of the accreditation,

<sup>67</sup> Court Civil Sentence 3573 of 30.05.2007.

<sup>68</sup> More precisely 1.01.2006 - 14.02.2007.

<sup>69</sup> See further details on the amendments brought to Law 544/2001 under the *"Legislation"* chapter.



stipulating the mayor should also pay 100 RON (approx. 28 euros) for each day of delay in the issuing of a new accreditation. As Mayor Ciuhandu failed to enforce the Court decision immediately, he had to also pay 15,000 RON (approx. 4150 euros) as a fee for forced execution.

On November 25<sup>th</sup> when the referendum for the uninominal vote took place, the journalists from the online edition of Új Magyar Szó newspaper were forbidden to film within the voting section no. 155 in Bucharest.<sup>70</sup> This was a consequence of the violation of a number of regulations in force by the Electoral Bureaus.

The President of the voting section no. 155 banned journalists from Új Magyar Szó daily from filming inside the voting section. The President said a daily newspaper doesn't need video footage. The journalists explained the online edition also features video recordings. When they tried to file a complaint, the President refused to accept it on the grounds that the complaints are to be submitted to the Central Electoral Bureau (BEC). Here the journalists were sent to the Bucharest Electoral Bureau where they were told the complaint was to be submitted. Nevertheless, on November 27<sup>th</sup> they received an answer from the Bucharest Electoral Bureau informing them the complaint had been dismissed as *"the media representative didn't observe the legal procedure on filing the complaint and the voting process was over at the time when the complaint was taken into consideration"*.<sup>71</sup>

## 2.5. Legislation

### · Penal Code and Penal Procedure Code

2007 started with a decision of the Constitutional Court setting back Romania with respect to the reform of the legislation regulating freedom of expression. One of the most important victories of 2006 was the passing by the Parliament of Law 278 proposed by the Ministry of Justice to amend the Penal Code. One of the law chapters (Article 1, paragraph 56) decriminalized the insult, the libel and the defamation against the country or the nation. Although the Parliament supported this reform, the Constitutional Court rendered a decision stating the decriminalization of the insult and libel was unconstitutional, providing that is the only mean to protect one's right to personal dignity.

The decision rendered by the Constitutional Court (no. 62 of January 18th 2007) led to protests from the non-governmental organizations and the media. The NGOs argued the civil legislation in force enables one to obtain appropriate reparations for one's harmed dignity (there are numerous journalists who had to pay civil damages in such civil lawsuits) and that the international trend is to decriminalize the insult and the libel. The Reporters Without Borders<sup>72</sup> and the Organization for Security and Cooperation in Europe expressed their discontent with the decision rendered by the Constitutional Court. OSCE found the reinstating of the insult and libel in the Penal Code is alarming as well as a step back with respect to the development of a framework to favor the free media. *"I am worried about the decision rendered by Romania's Constitutional Court on January 18<sup>th</sup> 2007 that reinstates the insult and libel as crimes, thus annulling the amendment passed by the Parliament in 2006"*.<sup>73</sup> Miklos Haraszti, the OSCE Representative on Freedom of the Media, said in a report presented to OSCE Permanent Council.

By the end of 2007, several decisions rendered by the Courts of Law in defamation lawsuits involving journalists were based on the criminal law.

There were several initiatives aimed at amending the Penal Code and the Penal Procedure Code. The Ministry of Justice initiated one of these. The first draft of the new Penal Code developed by the Ministry at the end of 2006 provided imprisonment sanctions for the violation of privacy by tapping or making audio records of a person in a private space or of a private conversation or by photographing, capturing or recording images of a person in a private space. Another chapter in the first draft pertained to the violation of the presumption of innocence by publishing or

<sup>70</sup> Press release *"The journalists from the online edition of Új Magyar Szó newspaper were forbidden to film within the voting section no. 155 in Bucharest"*, December 3<sup>rd</sup> 2007 - <http://groups.yahoo.com/group/freeex>.

<sup>71</sup> Decision no. 17/26.11.2007 issued by the Bucharest Electoral Bureau and signed by the Bureau President, Prosecutor Marlean Vacariu - quoted in the above mentioned press release.

<sup>72</sup> *"ROMANIA - Dismay at constitutional court's decision to reinstate press offences as crimes"*, February 4<sup>th</sup> 2007 - [www.rsf.org](http://www.rsf.org).

<sup>73</sup> See Ioana Av dani's blog - <http://avadani.hotnews.ro>.

broadcasting images of a person subject to investigation before the final ruling in a penal lawsuit in one of the following circumstances: a) upon the seizure or during the custody or preemptive arrest; b) during the unfolding of legal proceedings; c) in the premises or nearby the Court, Prosecutor's Office or the criminal investigation body. This offence was also to be sanctioned by imprisonment or penal fine. The Romanian Helsinki Committee (APADOR-CH), the Media Monitoring Agency, the Center for Independent Journalism, the Union of Professional Journalists and the Convention of Media Organizations argued that the sanctioning of the violation of one's privacy should be settled by civil law and that the violation of one's presumption of innocence cannot be settled by the proposed piece of legislation as it violates the public's right to be informed. Following the discussions with the above mentioned organizations, these articles were taken out of the final draft put forward to public debate in 2007. In early 2008 the draft of the new Penal Code was still blocked at the Ministry of Justice. An invitation to the debate initiated by the Ministry in the autumn of 2007 was postponed for an undetermined period of time.

The reshuffling of two ministers in 2007 did not help the criminal law reform. Periodically there are MPs proposing pieces of legislation to amend the Penal Code and the Penal Procedure Code in force. The reform of these two codes is obviously needed. However, some 'reform' initiatives are rather harmful. It was the case of the bill tabled in October 2007 by two parliamentarians in order to amend Paragraph 2 of Article 195 of the Penal Code - violation of the correspondence secrecy. The amendment initiated by the Social Democratic Party's Deputies Eugen Nicolicea and Ioan Timi at the debates in the Chamber of Deputies (the law had already been passed by the Senate) provided it was a crime to disclose a conversation or communication "*audio or video recorded without having the right, even if the offender came into possession of the recording by mistake or by accident*". The offence was to be sanctioned with imprisonment from 1 to 7 years. The amendment, directly targeted at journalists, stirred a major scandal. US Ambassador in Bucharest, His Excellency Nicholas Taubman publicly expressed his concern regarding the passing of such legal amendment.<sup>74</sup> The initiative came shortly after the broadcasting by TVR of the footage from the file of the Minister of Agriculture at that time Decebal Traian Remeș. The footage exposed deeds likely to be classified as corruption crimes, thus it was of public interest. If the amendment proposed by MPs Nicolicea and Timi would have passed, the journalists could no longer broadcast such public interest records.

#### · Access to public interest information. Decisional transparency

In 2006 the Government started the transposition of Directive 98/2003 of the European Parliament and of the Council on the re-use of public sector information. The transposition process was controversial and stirred the protests of NGOs arguing the incorporation of the Directive within the domestic case law was unnecessary as long as the law regulating the access to public interest information was already in place. The version initially passed by the Parliament came into conflict with that law and had the potential to obstruct the enforcement of the law on the access to public interest information.

On September 2006 the Presidency urged the Parliament to reexamine the law arguing it violated Article 31(1) of the Constitution of Romania providing that "A person's right of access to any information of public interest shall not be restricted". The final draft of the law incorporated some of the NGOs' requests.<sup>75</sup> These organizations demanded that in case the law was passed it had to observe the principles provided by Law 544/2001 on the free access to information of public interest, namely that the access to public interest information is free which implies, among others, free and unconditional access to information of public interest. They also required that the draft should make a clear distinction between the stage when the information of public interest is obtained (still subject to the provisions of Law 544/2001) and the stage when the public sector information is re-used, this being distinct of and subsequent to the access of that respective information. <<Access to

<sup>74</sup> See the protest "*Initiative for Clean Justice, Media Monitoring Agency, Pro Democracy Association and the Center for Independent Journalism strongly disapprove of the amendment brought to the Penal Code and the Penal Procedure Code*" - [www.cji.ro](http://www.cji.ro) and "*APADOR-CH position on the recent amendment of the Penal Code and its effects upon press freedom*", 26.10.07 - [www.apador.org](http://www.apador.org).

<sup>75</sup> "*APADOR-CH protest against the Government's transposition of the Directive of the European Parliament and of the Council on the re-use of public sector information*", 27.04.06 - [www.apador.org](http://www.apador.org).

public interest information must remain free and unconditioned by the payment of certain taxes or the proof of "*legitimate interest*"<sup>76</sup>, APADOR-CH stated.

The final version of the Law 109/2007 was published in the Official Gazette no 300/May 5<sup>th</sup> 2007. The law is not binding for mass media bodies and the re-use of the information by nonprofit entities is not deemed to be for commercial purposes. However, the law might cause confusion in practice. It is unclear how one shall construe the publishing of materials that are neither journalistic, nor coming from nonprofit entities, but, nonetheless, are of public interest. Another problem might arise in relation to an article pertaining to exclusivity: "*The documents that must be re-used for public service purposes may be subject to an agreement for granting an exclusivity right*".<sup>77</sup> The method for calculating the relating taxes (as it is currently regulated) and the lack of the enforcement provisions may leave room for arbitrary decisions. Moreover, the two institutions legally responsible for the drafting of the enforcement provisions are the Ministry of Communications and Information Technology and the Ministry of Justice and not the Agency for Governmental Strategies, namely the institution in charge with the implementation of Law 544/2001 and which has field expertise. To resume, the law contains a number of dangerous ambiguities and its effects upon the exercise of the right to access to information of public interest cannot be assessed yet.

In June 2007 another improvement was brought to the law regulating the access to public interest information, besides the previous amendments brought by the laws passed in 2006. Law no.188 of June 19<sup>th</sup> 2007 amends Article 5 of Law 544/2001 and provides that "public authorities and institutions are compelled to provide the interested parties with the privatization agreements concluded after the enforcement of this law, making them available for review at their respective headquarters". The change was necessary, but it has a major downside. The law applies only to privatization agreements concluded after the enforcement of the Law (June 30<sup>th</sup> 2007). Thus the law does not guarantee the access to the important privatization agreements concluded before 2007. It also maintains the exceptions provided by Law 544/2001.

The pieces of legislation passed in 2006 enlarged the enforcement area of the law regulating the access to information of public interest. It became applicable for any public authority or institution using or managing public financial resources, any autonomous board, national company as well as any commercial company under the authority of central or local public authority and in which the Romanian state or, according to the case, an administrative-territorial unit, is the sole or the majority shareholder<sup>78</sup> and defined the public procurement contracts as public interest information.<sup>79</sup> Unlike the privatization contracts, the law didn't stipulate that public procurement contracts had to be concluded after the date when it came into force.

In November 2007 a group of nongovernmental organizations was working together with the Agency for Governmental Strategies to develop a number of amendments to the law on the access to public interest information (Law 544/2001) and to the law on administrative decisional transparency (Law 52/2003). The same day, the Ministry of Interior and Administration Reform (MIRA) put forward for public consultation an Administrative Procedure Code including a truncated version of the two above mentioned pieces of legislation. The deadline for submitting comments was 10 days from the posting of the draft Code on the Ministry webpage. Following numerous protests from the NGOs arguing that the code was both unnecessary and inappropriate and that it harms the addressed laws, the Ministry of Interior extended the public consultation process and took a step back in terms of contents, as it gave up the abrogation of the two laws. APADOR-CH mentioned that during the consultations between the nongovernmental organizations and the ASG "*nobody representing this institution or other public authority (i.e. MIRA representative) referred to the existence of another draft law likely to have an impact upon the two laws under discussion. The Government's duplicity in this case contradicts the very concept of institutional transparency and civil society dialogue*".<sup>80</sup> The nongovernmental organizations also complained about the fact that the

<sup>76</sup> "APADOR-CH protest against the Government's transposition of the Directive of the European Parliament and of the Council on the re-use of public sector information", 27.04.06 - [www.apador.org](http://www.apador.org).

<sup>77</sup> Art. 10 (2).

<sup>78</sup> Law 371 / October 5<sup>th</sup> 2006 (Published in the Official Gazette no. 837/October 11<sup>th</sup> 2006).

<sup>79</sup> Law 380 / October 5<sup>th</sup> 2006 (Published in the Official Gazette no 846/October 13<sup>th</sup> 2006).

<sup>80</sup> "APADOR-CH position on the intention of the Government to abrogate the law on decisional transparency and the law on the free access to public interest information", 20.11.07 - [www.apador.org](http://www.apador.org).



draft law was initiated without observing the law (the preliminary principles of the draft code had not been passed by Government decision) and an administrative procedure code is void given the fact that an administrative code hadn't been passed yet.<sup>81</sup>

At the beginning of 2008 the status and the form of the draft Administrative Procedure Code was still unclear.

#### • Audiovisual legislation

In 2006 a working group including representatives of media organizations, industry and regulators<sup>82</sup> developed a draft for the amendment of the audiovisual law. The draft included a number of amendments aimed at a legislative modernization with a view to the transition to digital television and a chapter regulating the coverage of the electoral campaign by the broadcasters. The President of the Commission for Culture, Arts and Mass Media within the Chamber of Deputies committed to support the draft law. The Chamber of Deputies passed it with several amendments on February 2007. However, the Senate introduced drastic changes to the draft law. The anti-monopoly provisions were eliminated and the Government was granted the right to establish the number of licenses an operator may hold. The mandate of CNA members was extended from 6 to 9 years. Following the controversy stirred by these changes the draft law was fully rejected by the Senate in October, thus creating delays in the process of preparing Romania's transition to digital television.

In late 2007, the European institutions passed the Audiovisual Media Services Directive.<sup>83</sup> The Directive amends the Television without Frontiers Directive<sup>84</sup> and is mainly aimed at enabling the transition of the member states to digital television. Romania should transpose the provisions of the new Directive into its national legislation during 2008. At the beginning of the year, the National Audiovisual Council passed a new draft law for the amendment of the audiovisual law. The draft did not include a number of principles agreed upon and laid down in the 2006 draft law. Thus, CNA draft provided that the operators holding an analogical broadcasting license should be automatically granted a digital broadcasting license instead of having the operators entering a competition for getting such a license, as it was provided in the 2006 draft ('opening of the market'). Also, the multiplex operators were to be selected by joint agreement of the broadcasters transmitting via each multiplex and not by public tender. The draft also proposes a number of amendments on the shareholders structure in audiovisual media. A first draft abrogated Article 44(9) providing that "A individual or legal entity can be a direct or indirect majority investor or shareholder in one audiovisual company and may hold up to 20% of the registered capital of other audiovisual companies". The draft submitted to the Ministry of Culture proposed besides the abrogation of this Article the option to increase to 50% the registered capital held in the second audiovisual company.

Besides these questionable amendments, the draft introduces a number of changes that were absolutely mandatory for the transition to digital television, such as: redefining the terms currently used on the market (audiovisual media service, linear audiovisual media service, on-demand audiovisual services, commercial audiovisual communication etc.), the transposition of the Directive regulations on product placement and the increased flexibility towards the length and the insertion of advertising. The draft also introduces a stricter obligation to provide transparent public data on the broadcasters' shareholders, management structures and financial results.

At the beginning of 2007, CNA passed a number of amendments to the Audiovisual Regulation Code.<sup>85</sup> The most important amendment was the amendment of the "three thirds rule". Thus, "in the news programs, including the sports news, the broadcasters shall grant 60% of the total time allotted to politicians to the ruling party representatives (senators, deputies, central and local administration officials), respectively 40% to the parliamentary opposition, the independent MPs and the non-parliamentary parties as well as their local representatives. The

81 "Draft Administrative Procedure Code Violates the Law", 17.12.07. Press release signed by 18 nongovernmental organizations. [www.apador.org](http://www.apador.org).

82 The National Council of Audiovisual, the Ministry of Communication and Information Technology, the Center for Independent Journalism, the Media Monitoring Agency, the Romanian Association for Audiovisual Communications were members of the working group.

83 Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities (see [www.cna.ro](http://www.cna.ro), Legislation section).

84 Council Directive 89/552/ECC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ("Television without Frontiers" Directive), amended and completed by Directive 97/36/CE of 30 June 1997 of the European Parliament and of the Council - consolidated version (see [www.cna.ro](http://www.cna.ro) - Legislation section).

85 For amendments see the Decision no. 194 of February 22nd 2007 amending Decision no. 187 of April 3rd 2006 on the Audiovisual Regulation Code, National Audiovisual Council, [www.cna.ro](http://www.cna.ro).

*number of representatives of the ruling party and the Opposition attending the debates shall be even*"<sup>86</sup>The industry welcome this amendment. However, several industry representatives said CNA should also undertake a qualitative monitoring (and not only quantitative) in order to assess the discourse of the politicians and the position in which they are shown on TV.<sup>87</sup>

Another important change brought in 2007 to the Audiovisual Regulation Code refers to Article 73: "... the broadcasters cannot broadcast audiovisual programs edited, presented, hosted or produced by parliamentarians, Government or public central and local administration representatives, Presidential Administration representatives, parties' officials or spokespersons, publicly nominated candidates or those having publicly announced their intention to run for local, parliamentary or presidential elections or programs in which such persons are permanent guests"<sup>88</sup>. According to a subsequent Decision (no. 516 of June 13th, 2007) the cultural and artistic shows were excepted from the regulations set by this provision.

Another CNA initiative in 2007 was to start monitoring the improper use of Romanian language in audiovisual programs. CNA concluded a cooperation agreement with Iorgu Iordan - Al. Rosetti Linguistics Institute within the Romanian Academy for the undertaking a research upon the observance of Romanian grammar norms by the broadcasters. Several major radio and TV stations were monitored and two reports had been released by the beginning of 2008. The initiative is praiseworthy and it could result in increased broadcasters' responsibility upon the use of Romanian language in the long run.

A problem though came from the fact that CNA didn't settle, in the first stage, for drawing the broadcasters' attention upon the serious mistakes they were making, but proceeded directly with summons. Such summons were issued even for a TV advertising video that had nothing to do with the editorial activity of that respective station;<sup>89</sup> although CNA could simply requested the station to observe the legal norms. The audiovisual legislation in its current form, more precisely the secondary legislation passed by the Council enables the regulator to enforce such measures, including summons and even fines. Article 88 of the Audiovisual Regulation Code provides: "*Broadcasters have the obligation to make sure the orthographic, orthoepic and morphologic rules of Romanian language, as they are established by the Romanian Academy*". R. svan Popescu said: "*Together with the Romanian Academy of Sciences we shall put ongoing pressure on the radio and TV stations. We are determined to issue sanctions until we will not be ashamed anymore by the language spoken in the audiovisual*".<sup>90</sup> It is important that CNA maintains proportionality of the sanctions and regulates clearly the situations subject to sanctions. One should make a difference between live and recorded programs. Viva voce, time pressure or the wish to express in a colorful manner are only few reasons behind the journalists' improper use of the language in relation to the norms agreed by the Romanian Academy. Freedom of expression is also about the freedom to choose one's form of expression (i.e. the pamphlet may include grammatically incorrect expressions). Moreover, freedom of expression is not granted exclusively to those who speak grammatically correct, especially when the Academy norms are constantly changing.

#### · Public broadcasting services law

2008 is an electoral year and the amendment of this law is an "*forgotten*" electoral promise made in 2004 by the parties in the former D.A Alliance. Both the Democratic Party (the current Democratic Liberal Party - PD-L) and the Liberal Party (PNL) proved they had neither the will, nor the wish to amend this law. All the bills aimed at structurally amending Law 41 of June 17<sup>th</sup> 1994 on the organization and the functioning of the Romanian Public Radio and the Romanian Public Television<sup>91</sup> were blocked in the Parliament. The consequences were visible last year when, for the first time in the history of the public television, a politician was appointed President General Director of the institution.

<sup>86</sup> *Ibidem*, amendment to Article 74 of the Code (See Point 7 of the Decision).

<sup>87</sup> "*CNA Makes Retouching*", Evenimentul Zilei, February 23<sup>rd</sup> 2007, Floriana Scanteie. See the declarations made by Realitatea TV Programs Director Catalin Popa and TVR General News Editor at that time Liviu Popescu.

<sup>88</sup> Decision no. 194 of February 22<sup>nd</sup> 2007 amending Decision no. 187 of April 3<sup>rd</sup> 2006 on the Audiovisual Regulation Code.

<sup>89</sup> See Press releases, 6.12.2007, 11.03. 2008 - [www.cna.ro](http://www.cna.ro).

<sup>90</sup> "*Press information - Romanian Language Reporting*", press release issued by the National Audiovisual Council, February 7<sup>th</sup> 2008 - [www.cna.ro](http://www.cna.ro).

<sup>91</sup> Published in the Official Gazette no. 153 of June 18<sup>th</sup> 1994.

The main amendments to the law advocated by the freedom of expression NGOs are: the separation of the positions of General Director (executive position) and the President (strategic decision position); appropriately balanced political representation in the Board by enabling the NGOs to nominate members (the nomination would observe the competence criteria for Board membership); introduction of some incompatibilities for Board members (including denying Board membership to a person with a high position in a political party); eliminating the possibility to automatically dismiss the Board in case the Parliament rejects the annual report.

Besides the public broadcasting services law, one has to undertake measures to harmonize the internal regulations and by-laws of the Romanian Public Radio and the Romanian Public Television with the audiovisual legislation, the Constitution of Romania and other laws they might come at conflict with. The effects of the lack of harmonization were also visible last year, when the internal regulations and by-laws of the Romanian Public Television were used to restrict the right to free expression of the journalists working for this institution. These regulations and by-laws should be made public on the institution website.

#### · Privacy

At the end of 2006 the Government passed the Emergency Ordinance (OUG no. 131/2006) amending the Law on the functioning of the Organized Crime and Terrorism Investigation Board (Law 508/2004) and the Emergency Ordinance no. 99/2006 on credit institutions and capital adequation. Both bills had been initiated by the Ministry of Justice and included provisions enabling prosecutors to access IT systems without a warrant to be issued by a judge and requiring solely an authorization for the prosecutor in the case of bank accounts monitoring.

Subsequently, the Ministry of Justice mentioned this didn't include the access to the communication content or to data, but merely the access to the information pertaining to the traffic and the access to phone calls listings. The Ministry also specified that the interception, recording or search of IT systems would have continued to be permitted only upon judge's approval. Media and NGOs harshly criticized the Ordinance. They argued the bill violated the right to privacy and urged for the judge's warrant to be required also in the cases mentioned by the Ministry.

In early 2007 the Chamber of Deputies sat in plenary and passed a draft law abrogating the effects of Ordinance 131/2006. On its turn, the Superior Magistrates Council stated that prosecutors may monitor, intercept or record communications and IT systems only based on a warrant to be issued by a judge.

#### · Freedom of expression on sports arenas

On June 25<sup>th</sup> the Senate passed the draft law on the prevention and combating of violence in sports competitions and events.<sup>92</sup> The bill was tabled by Greater Romania Party (PRM) MP Dumitru Dragomir, President of the Professional Football League, as a consequence of the escalating violence on stadiums in the last years. In its initial form, the draft included several provisions restricting the right to free expression. MMA publicly disputed these provisions and urged the legislators to eliminate them from the law before the final vote in the Parliament's plenary session. Amongst these should be mentioned the sanctioning of the chanting "*denigrating or harming the image of football officials, private security companies, public guardians or their representatives*". Another article likely to seriously harm freedom of expression banned the display of banners, flags or other writings containing "texts or images denigrating or harming the image of the participants in sports competitions or events, including the spectators". Eventually those respective provisions were eliminated from the final draft passed by the Parliament in December 2007 and promulgated by President Traian B.ăsescu in early 2008.

92 Law no. 4/09.01.2008 published in the Official Gazette no. 24 of January 11<sup>th</sup> 2008.

## · Electoral laws. Opinion polls

The two referendums organized in 2007 and the elections for the European Parliament proved the need to harmonize the laws regulating the audiovisual media coverage on the various types of electoral campaigns. The current regulations pertaining to the audiovisual coverage on electoral campaigns are to be found both in the Audiovisual Law and in the laws regulating the organization of various types of elections or referendums.

In April 2007, one month before the referendum for the President's suspension, the parliamentary Commission for the quotas monitoring and distribution allotted the referendum campaign quotas at the public radio and television according to the political representation in the Parliament. The decision was likely to misinform the voters given the utterly unbalanced distribution of quotas in favor of the coalition that voted for the President's suspension.<sup>93</sup> Eventually the Commission dropped the distribution of quotas. The National Audiovisual Council undertook a balanced position and decided the broadcasters must equally present the opinions pro and against<sup>94</sup> during the referendum campaign.

The problem was raised again in November 2007 when Traian B.ăsescu accused the public television of obstructing his on screen presence during the uninominal vote referendum campaign. The President wanted to explain the type of uninominal system he was asking the population to vote for. The public television postponed the transmission under the pretext there wasn't any commission for the allocation of the quotas. The public radio station also postponed the debate on a topic that was relevant for the referendum under the same pretext – lack of a decision for the distribution of quota. Like in the case of the referendum in May, CNA had decided the broadcasters should equally present the opinions pro and against during the campaign period.<sup>95</sup> This decision regulated the debate and the quotas where just the time allotted to the parties for to address directly to the voters, in dedicated shows, without the editorial involvement of public radio and television journalists. The two institutions chose to wait for a Parliament's decision that didn't have anything to do with the matter of debate instead of fulfilling their mandate of informing with a view to the public interest.

In August 2007 the Commission for Electoral Laws<sup>96</sup> introduced an amendment banning the publishing of opinion polls during the campaign for the elections for the European Parliament. The provision stipulated that it was forbidden to “present opinion polls of electoral nature or to broadcast electoral programs pertaining to the voting intentions 30 days before the voting day as well as to present exit polls on the voting day prior to the closing of the polls”.<sup>97</sup> The provision stirred protests from the nongovernmental organizations and the public opinion survey institutes. They argued that opinion polls don't significantly alter voters' opinions and that the decision harms citizens' right to be informed depriving them of essential information before an important political event. Despite these arguments, the provision supported by the Social Democratic Party, the Liberal Party,<sup>98</sup> the Greater Romania Party, the Hungarian Democratic Union and the Conservative Party was passed by the Parliament in October 2007. At the beginning of November the President asked for the Law to be reexamined as he deemed the provision to be excessive and unconstitutional. The law remained suspended at the Senate and it was neither passed, nor rejected by the beginning of 2008.

## 2.6. Ethics and self-regulation

Businessman, politician and Steaua București football team owner George Becali admitted he was the beneficiary of free publicity on ProTV station by a compensation mechanism involving Steaua Club, a commercial company partner of ProTV and Marriott hotel.

*“A company collaborating with ProTV had to pay Steaua for TV broadcasting rights. I had to pay Marriott where I have my office and Marriott was purchasing advertising time on ProTV. They didn't take the money and it was compensation in three... There wasn't any money anymore; ProTV*

<sup>93</sup> Press release – “Media Monitoring Agency, Pro Democracy and the Center for Independent Journalism Accuse the Parliament of Manipulating the Referendum”, 26.04.2007.

<sup>94</sup> Decision no. 369 of April 23<sup>rd</sup> 2007 on the radio and TV coverage of the referendum for the suspension of the President of Romania – www.cna.ro.

<sup>95</sup> Decision no. 897 of October 25<sup>th</sup> 2007 on the radio and TV coverage of the referendum for the uninominal vote in parliamentary elections – www.cna.ro.

<sup>96</sup> Chamber of Deputies and Senate Joint Committee for Drafting the Legislation for the Election of the Chamber of Deputies and Senate, the President of Romania, election of local public administration representatives, the financing of the electoral campaigns and the elections for the European Parliament.

<sup>97</sup> Law passing the Governmental Emergency Ordinance no. 1/2007 regarding some measures for the organization and unfolding of the elections for the European Parliament, Article I, point 4.

<sup>98</sup> Press release issued by Media Monitoring Agency on August 30<sup>th</sup> 2007 – www.mma.ro. Press release issued by Soros Foundation on October 11<sup>th</sup> – www.fsd.ro.



was offering Marriot advertising space, so they were giving the money to me. Just to have an idea, I believe it was about 230,000. Actually, there wasn't any idea, just some professionals at ProTV who came to realize Gigi Becali is the best-seller in Romania nowadays... When I left the Marriott, I had a deal with Taher [stakeholder at Marriott]. It wasn't about giving him the money, but about doing something with some advertising from Pro TV. But never mind, you have no business in finding out that... So, I had to pay him with some advertising, up to 100,000 euro. But then the Cyprus people came and they didn't want advertising", Becali said on a show at B1 TV on February 2007.

Gazeta Sporturilor asked Pro TV management to comment on that. The answer was: "ProTV doesn't deny and doesn't confirm the declaration made by Mr. Gigi Becali. We don't discuss our commercial agreements"<sup>99</sup> Several days later, a representative of the TV station said that: "Gigi Becali didn't and doesn't have any kind of contract with ProTV. ProTV is nobody's PR agency"<sup>100</sup>

Businessman and former Marriott shareholder Fathi Taher, who has a close relationship with Becali, confirmed for daily newspaper Cotidianul the three parties had an agreement: "Indeed, we concluded an agreement for a specific period of time. It was all legal... It's OK. He [Becali] can say what he wants. We had to retrieve the money he owed to the company [Marriott Hotel namely]"<sup>101</sup>

The entire compensation mechanism described by Becali was documented by the Romanian Center for Investigative Journalism that published a story on the topic on its website.<sup>102</sup>

The generalized lack of journalistic quality and the sacrifice of professional standards in order to get bigger ratings is best illustrated by the "Teacher" scandal. In late May, a 19 years old boy committed suicide, by jumping off the balcony of his former Romanian language teacher with whom he had had an affair ever since high school. The subsequent investigations and the official investigation came up with the same conclusion - the boy committed suicide.

The media covered the issue in great detail over a period of several weeks. Unfortunately, some journalists and media institutions turned into "prosecutors" and gave verdicts before the Justice reached its own. Thus, teacher Corina Vasile was presented by the media as the "sex teacher" or "the adulterous teacher" and some newspapers or TV stations found she was the moral culprit for the death of Bogdan Costache. All this avalanche of accusations unsupported by evidence and made before the Justice passed a verdict lead to situations such as the one on May 29<sup>th</sup> when a group of individuals gathered in front of the high school whereby Corina Vasile was teaching to boo and curse her. According to a MMA monitoring on the observance of ethical and professional standards by Romanian media reporting this case, "The journalists concerned with finding out the truth pretty much gave up their role as information providers and acted as pressure or coercive agents. Moreover, the journalistic investigation overlapped the judiciary one, resulting in a fake substitution of roles in the public perception. With few exceptions, the information channels covering this case repeatedly violated the presumption of innocence, one's right to one's image and the right to privacy"<sup>103</sup>

OTV station went further and claimed that teacher Corina Vasile and her husband murdered youngster Bogdan Costache. On August 2<sup>nd</sup> Gardianul<sup>104</sup> daily reported that journalist Luis Lazarus working for OTV TV station had allegedly asked Florin Vrânceanu, one of the witnesses in the case of teacher Corina Vasile to accept money in order to give an interview to OTV and lie about what happened so that his story would corroborate the version presented by OTV journalists on the case. Luis Lazarus denied these accusations, saying they were "nonsense and absurdities"<sup>105</sup>

On November 11<sup>th</sup>, Bogdan Chirieac, Senior Editor at Gândul daily resigned his function at the newspaper after an investigation published by daily Evenimentul Zilei. The topic of the article were the contracts concluded between the Center for Radiocommunications Services SRL (CSR) and the Special Telecommunications Service (STS). CSR is a company in which Bogdan Chirieac is one of the associates and STS coordinates the special telecommunications for public authorities in Romania. The contracts between the two entities amounted in 2006 and 2007 to 24 million euros granted by

99 <http://blogsport.ro/gsp/2007/02/>

100 Ibidem.

101 "Taher Confirms Agreement between Gigi and PRO TV on SMSAs Well", Cotidianul, February 12<sup>th</sup> 2007.

102 "Guess Who's On the News?", by tefan Cădea, February 14<sup>th</sup> 2007 - [www.crji.org](http://www.crji.org).

103 "Teachers' Witchcraft", Media Monitoring Agency, June 2007 - [www.mma.ro](http://www.mma.ro).

104 "<<Sex>> Teacher Case - Witness Influenced by Lazarus", by Andi Topal, Ion Alexandru, Gardianul, August 2<sup>nd</sup> 2007.

105 Ibidem.

STS solely on the basis of CSR offer for the purchase of Motorola equipment. According to Evenimentul Zilei, CSR businesses with state owned companies flourished after Bogdan Chirieac became one of the company associates. In a declaration for Evenimentul Zilei, the journalist admits his relations influenced the conclusion of the contract: *"Let's say that my excellent connections in the US and Israel mattered when the company became a Motorola certified vendor"*.<sup>106</sup>

Evenimentul Zilei accused Chirieac of unethical conduct as he used his position as a journalist to promote the interests of the commercial company he has stocks in. Thus, in 2005 Chirieac wrote an article criticizing the products of a competitor (EADS) that in 2004 had signed a contract with the Romanian state for securing of the borders.

As a follow up to this situation, the Romanian Press Club decided to introduced in its Code of Ethics a recommendation regarding the submission of a declaration of interest by the journalists and managers working in an editorial office. According to this recommendation, the journalists' declarations should be submitted to the editors in chief while the managers' declarations should be made public.

Also in 2007, CRP introduced in its Code of Ethics a reference to an important matter – the separation between the editorial and the economic departments: *"Journalist's involvement in any negotiation regarding the sale of advertising is forbidden"*. A similar provision is included in the code adopted by the Convention of Media Organizations in 2004. It is crucial to clarify this ethical issue given that there are still many editorial offices, especially at the local level, but not only, whereby the journalists are looking for advertising agreements for the newspaper.

On December 31<sup>st</sup>, Italian journalist Gabrielle Marcotti published a detailed story entitled *"Give us a penny for your thoughts"* in British daily The Times. In this report, Marcotti claimed that *"a Romanian TV host and editor of football weekly Fanatik is accused of having solicited money from the players and the coaches in exchange for good press reviews"*.<sup>107</sup>

Sport365<sup>108</sup> contacted Victor Pi urc , the Romanian national football team coach, to comment on the article published by The Times. He confirmed the story and said he sued Horia Ivanovici and is waiting for a Court verdict. In reply, Horia Ivanovici said he *"doesn't take morality lessons from a convict"*.<sup>109</sup> *"Instead of talking about the so called bribes I have allegedly taken when I was 10, I suggest he pays more attention to the selection [of the footballers for the team], as the convict-coach is the one that seems to be taking bribes, sorry...commissions in this respect"*, Ivanovici said, quoted in the same article.

The Romanian Press Club (CRP) continued its internal restructuring started in 2006.<sup>110</sup> In early 2007, CRP decided that the member media companies should also be represented by a journalist along with the management delegates. Another decision was to include an equal number of journalists and ownership representatives in its Council of Honor, while the CRP President was to be elected only from the member journalists. CRP went on and decided to further divide the organization into two distinct bodies: a journalists' one and an owners' one. On the 10<sup>th</sup> of February, Cristian Tudor Popescu was re-elected CRP President after his resignation in 2006 as a protest against the way the organization was working.

At the end of 2007, part of the journalists body within CRP set up the Association of the Romanian Journalists (AJR), while the ownership body was to become a legal entity and to turn into the Romanian Media Ownership Organization in early 2008. With a view to this reorganization process, on the 10<sup>th</sup> of February 2008 the journalist members of AJR resigned from CRP. Among them was Cristian Tudor Popescu who also resigned his CRP President position.

106 "Chirieac Scams" by Mihai Munteanu, Evenimentul Zilei, November 18<sup>th</sup> 2007.

107 "Give us a penny for your thoughts", by Gabriele Marcotti, The Times, December 31<sup>st</sup> 2007 ([www.timesonline.co.uk](http://www.timesonline.co.uk)), quoted by Radu Restivan in <<Pi urc : Ivanovici solicited "contributions" from the national team coaches and players>>, [www.sport365.ro](http://www.sport365.ro), January 15<sup>th</sup> 2008.

108 <<Pi urc : Ivanovici solicited "contributions" from the national team coaches and players>>, [www.sport365.ro](http://www.sport365.ro), January 15<sup>th</sup> 2008.

109 "Pi urc Accused of Bribe", by Octavian opa, Avere, September 14<sup>th</sup> 2007.

110 See the Report "Press freedom in Romania, year 2006", chapter "Ethics" published by the Media Monitoring Agency - [www.freeex.ro](http://www.freeex.ro).

### 3. RECOMMENDATIONS

- The politicians have the right to criticize the media, but any threat or attack is dangerous and encourages the generalized violence against journalists, especially as 2008 is an electoral year.
- Transparency of ownership structure and funding sources is a process that should continue. Off-shore companies contribute in keeping owners' identity hidden and facilitate the infringement of legal provisions in force.
- Insult and libel should be immediately decriminalized.
- State institutions must enforce the law on the access to the information of public interest and stop banning the access to such information.
- Public television and radio are in urgent need of new regulations. The two institutions should become truly independent from politics and focus on increasing the quality of the products delivered to the audiences.
- Media institutions must find effective self-regulation methods and invest resources in journalists' professional training.



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