



## Background information report

Media policies and regulatory practices in a selected set of European countries, the EU and the Council of Europe: The case of Romania

Cristian Ghinea and Alina Mungiu-Pippidi (HERTIE)

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## **Project profile**

MEDIADEM is a European research project which seeks to understand and explain the factors that promote or conversely prevent the development of policies supporting free and independent media. The project combines a country-based study in Belgium, Bulgaria, Croatia, Denmark, Estonia, Finland, Germany, Greece, Italy, Romania, Slovakia, Spain, Turkey and the UK with a comparative analysis across media sectors and various types of media services. It will investigate the configuration of media policies in the aforementioned countries and will examine the opportunities and challenges generated by new media services for media freedom and independence. Moreover, external pressures on the design and implementation of state media policies, stemming from the European Union and the Council of Europe, will be thoroughly discussed and analysed.

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## **Information about the authors**

**Cristian Ghinea** is the Director of the Romanian Center for European Policies. After eight years of writing for the Romanian media he studied EU Governance at the London School of Economics in 2007 – 2008. Upon his return to Romania he set out to combine academic approaches to shape a credible and influential public discourse on EU-related issues. He has been involved in civic projects with the Romanian Academic Society, the Center for Independent Journalism, the Helsinki Committee and the Freedom House - Romania. Mr. Ghinea has published in international reports such as the ‘Media Sustainability Index’ (IREX) and the ‘Nations in Transit’ (Freedom House).

**Alina Mungiu-Pippidi** is a leading expert on the process of democratic transition and economic transformation in East and Central Europe. She studied political science at Harvard University after completing a PhD in Social Psychology in 1995 at the University of Iasi in Romania. She taught at the University of Bucharest and SNSPA Romania, and was a Visiting Scholar at Stanford, Harvard, the European University Institute and St. Antony’s College of Oxford University, among others. She is a board member of the International Forum of Democracy Studies and the Journal of Democracy. She has a thorough knowledge of Romanian media policy and consults for various international and state institutions. In 1996 she founded the think tank Romanian Academic Society, which has since played an important role in promoting good governance in Romania.

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## The case of Romania

*Cristian Ghinea and Alina Mungiu-Pippidi*

### 1. Introduction

Romania's troubled political and economic transition from communism to democracy over the past 20 years has taken a heavy toll on its media landscape. The evolution of mass media from total state control to a free press has been strongly linked to political cycles, changes in government structure and economic development.

The metamorphosis of the media since the 1989 anti-communist revolution can be traced through four fairly distinct periods, dominated in turn by the state, prominent journalists, multinational media companies and local investors.

- **1990-1995:** The state maintains control of public television, the main source of information for most Romanians. Other media outlets continue to be dominated by former supporters of communist dictator Nicolae Ceausescu, who was overthrown and executed in 1989.
- **1995-early 2000s:** ProTV, the first truly commercial and independent station, begins operation. In print media, old outlets change and new ones, including some quality newspapers, gain circulation and prominence.
- **Early 2000s:** A mixed period in which journalists' control of major media wanes and that of foreign and domestic media companies grows.
- **After 2004:** Local "media moguls" begin to dominate. The state is openly hostile but impotent. Foreign media investors retreat.

The symbolic end to these four stages of development came in July 2010, when the last foreign owner of a Romanian quality newspaper raised the white flag. Bodo Hombach, manager of the German WAZ media company, said WAZ was abandoning the Romanian market because it was "distorted" by the "massive investment made by people who make their money in other industries and invest million of euros in mechanisms that artificially increase the audience."<sup>1</sup> With the withdrawal of WAZ, Romania now has virtually no foreign investment in mainstream quality media.

The history of Romania's media since the 1989 revolution is one of radical change. During the communist era, the country had no samizdat media and thus no alternative to the official press. The only attempt to publish an illegal newspaper, led by Petre Mihai Bacanu in 1989, ended when the three authors were jailed. They were freed only after the revolution. Then, in the enthusiastic aftermath of the revolution, journalists began editing, printing and even directly selling countless newspapers. Just as quickly, however, the old guard in the profession took advantage of this media frenzy, and people who had previously praised Ceausescu continued to control the major media outlets.

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<sup>1</sup> "Bodo Hombach (Grupul WAZ): Ne retragem din Romania pentru ca piata media este distorsionata" [We retire from Romania because the media market is distorted], Hotnews, 03/08/2010, available at: [http://economie.hotnews.ro/stiri-media\\_publicitate-7658216-bodo-hombach-grupul-waz-retragem-din-romania-pentru-piata-media-este-distorsionata.htm](http://economie.hotnews.ro/stiri-media_publicitate-7658216-bodo-hombach-grupul-waz-retragem-din-romania-pentru-piata-media-este-distorsionata.htm) (last visited on 10/10/2010).

So in 1990, one can hardly speak of an independent media in Romania. The troubled political scene that year split the media, as it did Romanian society. Former Communist Party apparatchik Ion Iliescu and his National Salvation Front (FSN) used autocratic methods to maintain power. FSN dominated public television, which most Romanians relied on for their information. That control allowed the FSN to gain an overwhelming majority in the new Parliament. The voters had been persuaded to fear instability and reject change. Public TV portrayed the democratic opposition as hooligans and traitors who wanted to sell off the Romanian economy. The few newspapers available to the opposition were as hysterical toward Iliescu and his regime as the FSN's media outlets were toward the democratic opposition.

At the huge cost of political violence and international isolation, Iliescu's regime succeeded in maintaining power until 1996. It was a wrenching period for the country and a frenetic one for journalists. Economic reforms were slow and disjointed, benefiting only a small number of corrupt officials and businessmen with connections to the state. Iliescu became the symbol of stagnation and failure. State officials tried to maintain a firm grip on the media, but failed. The state was forced to retreat from the industry, and a number of journalists and editors filled the gap.

Although 1995 was a defining year, the media landscape had begun changing before then. In 1991, the first independent TV station started broadcasting: SOTI TV. The station was an amateurish attempt supported by United States democratisation money, but that funding prepared the ground for the first truly commercial and independent station in 1995: ProTV.

In print media, old outlets changed and new ones began to dominate the landscape. *Scanteia*, the newspaper of the former Romanian Communist Party, changed its name after the 1989 revolution to *Adevarul* – The Truth. In 1990, “the truth” was just a metaphor, because *Adevarul* was a mouthpiece of the Iliescu regime, and its editorial leadership was under the direct control of the government. The journalists at the paper later rebelled, deposed the editor in chief and elected their own leaders. Although this did not make *Adevarul* a respectable newspaper, given the fact that the new management had a shady relationship with the politicians, control at least appeared to have been wrested from the state.

In 1993, an innovative newspaper took the market by surprise. *Evenimentul Zilei* combined an aggressive style with both quality and yellow journalism. The paper's owners kept a low profile, but founding journalists (and minor shareholders) Ion Cristoiu and Cornel Nistorescu gave its editorial stance a high profile. Two years later, Pro TV succeeded in ending the dominance of the public television. By the mid-1990s, all the important newspapers were run and dominated by journalists, and most of them played a significant role in the opposition victory in 1996. That ended Iliescu's reign, a decisive moment that put Romania into the orbit of Westernisation.

Over the next few years, until the early 2000s, journalists slowly lost ground to media investors, both national and foreign. Journalists lacked the financial means to develop their outlets, while the investors had the money and skills to do so. But the period when journalists dominated major media was far from a golden era in which heroic media professionals strived to serve the common good. It was actually the moral bankruptcy of the professionals that brought their downfall, in particular three factors.

- **Personalisation of the press:** The media outlets were less important than their directors or editors-in-chief. These were Popescu's or Nistorescu's newspapers. The media stars' personal idiosyncrasies dictated editorial policies, often for no other reason than, "I don't like this or that politician." This also led to fragmentation, as any journalist who began to gain notoriety tried to start his own (almost never her own) newspaper.
- **Uncertain revenue:** The media research, marketing and advertising industry was new to Romania, thus higher circulation did not assure higher revenue. Moreover, the fragmentation of the media meant that the total circulation of the top 12 Romanian national dailies barely reached the numbers of, for instance, the top newspaper in Poland. This made each unsustainable financially, and their directors had to negotiate both with private companies and the state to obtain advertising or "special deals." The entire market became easy prey for the businessmen and Western media companies that entered the Romanian market in the late 1990s.
- **Lack of professional ethics:** Because the directors' opinions were in fact editorial policy, the journalists dismissed any discussion about journalistic ethics as personal attacks. The many attempts by various NGOs to talk about rules of professional ethics were ignored, drew little reaction or were harshly criticised.

In the 2000s, the arrival of powerful Western media companies and the rise of local "media moguls" ended this short period of dominance by journalists. *Evenimentul Zilei* was bought by the Swiss Ringier, *Romania Libera* by the German WAZ, and *ProTV* by a regional media company. The market became less fragmented, but the journalists were sidelined from their positions of power and influence. Conflicts broke out between journalists and owners at each of the three leading newspapers: *Evenimentul Zilei*, *Romania Libera* and *Adevarul*.

The democratic coalition that led Romania between 1996 and 2000 started painful reforms of the stagnant economy. The economic difficulties that followed made the government unpopular. The permanent conflict among the four coalition parties gave the impression of chaos and instability, and many Romanians began to feel nostalgic about Iliescu's stable stagnation. Nevertheless, the coalition succeeded in putting the country on a strong pro-Western track, which led to the EU's decision in December 1999 to start membership negotiations with Romania.

During the 2000 elections, the disarray of moderate right-wing coalition parties led to a run-off between Ion Iliescu and the neo-fascist Corneliu Vadim Tudor, leader of the Greater Romania Party. The same media outlets that contributed to the defeat of Iliescu in 1996 had no choice but to support him to avoid a Tudor victory, seen as a danger to Romanian democracy. It was a mostly spontaneous campaign oriented against Tudor that all mainstream media supported and justified because of the circumstances.

Ion Iliescu regained power, and his party, now called Social Democrat Party (PSD), dominated a Parliament in which the opposition was split among the democratic right wing and Tudor's extremist party. Because Iliescu preferred to keep a low profile this time, the new strongman was Adrian Nastase, prime minister and formal leader of the PSD. Nastase was a pragmatist who kept the pro-Western tendency and succeeded in completing negotiations with the EU in 2004, with 2007 set as the accession date. Nevertheless, Nastase and his party's strong position led to some setbacks for democratisation. The media felt this change directly.

Freedom House evaluated and downgraded the country's press, calling it "partially free." Though not openly, Nastase tried to revive the role of the state in the media market by concluding shadow deals with media owners and awarding preferential public money to friendly media. All major media outlets owed money to the state from unpaid taxes, and the government and the owners made under-the-table deals. Essentially, these deals bought positive coverage for tax delays.

Another strategy was to buy advertising for public companies and institutions. Some of these were bogus ads, such as those for airports or national railway companies. A civic campaign against this practice gained the European Commission (EC)'s support. The EC wielded great power at that moment because of conditions the Romanian government was required to meet to complete EU accession negotiations. The NGOs involved in the campaign monitored the public money spent on advertising and revealed that the state was the biggest single buyer, at about €5 million each year. At least for the print media, these funds made the difference between profit and economic collapse. The problem worsened in 2003-2004, when some newspapers such as *Evenimentul Zilei* were forbidden to take public money. They later raised the issue on the public agenda.

Content monitoring data from that period showed Nastase to be the main media star on television, receiving overwhelmingly positive coverage. His image was more balanced in print media, and some newspapers were even openly hostile.

Facing the PSD's dominance, the democratic opposition united. The Democrat Party (PD) and National Liberal Party (PNL) made a deal to compete on a common ticket called D.A. Alliance ("Yes" in Romanian but also the abbreviation for "Justice and Truth"). The PD's leader, Traian Basescu, was to compete with Adrian Nastase in the presidential race (Iliescu had reached the two-term constitutional limit), and Liberal leader Calin Popescu Tariceanu was to be appointed prime minister. The 2004 parliamentary elections showed PSD and the Alliance finishing neck and neck. It was then up to the new president to appoint a prime minister, each side being able to reach a majority with the support of smaller parties and the Hungarian minority representatives. In a dramatic run-off, Basescu narrowly defeated Nastase and appointed Tariceanu as prime minister, although their personal relations were rather cold.

Basescu promised to reform the state and the economy and to fight corruption. But he is a divisive figure, openly attacking enemies and friends and criticising public institutions. He defends himself by claiming that the job of a directly elected president is to speak for the common people.

Romania has a rather eccentric semi-presidential system. The president supervises security and foreign affairs but has limited formal power outside these areas. Though both of Basescu's predecessors used their presidential powers to influence government and public institutions, Basescu's combative style annoyed other politicians and estranged Prime Minister Tariceanu. The relationship between Basescu and Tariceanu began to deteriorate in 2006, but the chief of the executive decided to expel the ministers of Basescu's party a year later, after waiting for the EU accession to be completed. Romania became an EU member in January 2007, and Tariceanu immediately excluded Basescu's Democrats from the government. They included popular Justice Minister Monica Macovei, a reformer and anti-corruption activist who had an important role in convincing Brussels that Romania deserved to be an EU member.

Basescu accused Tariceanu of making deals with powerful businessmen in search of political patronage. The political conflict between the president and the prime minister lasted until the new parliamentary elections in 2008. Basescu was isolated in his palace, with limited influence over policies, except in cases when he picked the fights and used the presidential power to temporarily veto legislation. He succeeded primarily in protecting the National Integrity Agency, a bold institution that charged numerous politicians with corruption. Such charges are rare in Romania. The influence of the European Commission, which still monitors the Romanian justice system, also helped. During 2007-08, the government and the ad-hoc majority in Parliament tried to intimidate the prosecutors by changing the legislation and parliamentary controls over their cases.

Tariceanu was the leader of a minority government supported by the Social Democrats. The new allies succeeded in keeping Tariceanu in power, as any change in the government leadership would have given an advantage to Basescu (the president appoints the prime minister). Romania became the second European country in modern times (after Lithuania) to impeach a president. The Parliament took this decision against the advice of the Constitutional Court, which decided that although Basescu was an unusually outspoken president, his behaviour was within the limits of the Constitution. Basescu was suspended from the office for one month until a referendum was organised in order to confirm the Parliament's decision.

Basescu campaigned as a defender of the people against the oligarchy and though the turnout was low, won with more than 70% of the votes. Though Basescu was back in power, this moral victory meant little for the government, which continued to have the support of PSD in Parliament. The cost of this opaque legislative majority was that Romania reached 2008 with a 5% budget deficit in the last year of economic growth. The sharp increase of public spending meant an increase in public sector wages and pensions – the PSD's conditions to support the government. The global economic crisis caught Romania with empty pockets and limited possibilities to increase public spending for anti-crisis economic stimuli.

During these years, the media followed the societal trend and split sharply into pro- and anti-Basescu camps. Many have argued that the media encouraged this division. Basescu continued to criticise the owners of TV stations (see below the description of media conglomerates in Romania). He faced a hostile media during this period, with limited support from some newspapers. He tried and partially succeeded in making the media seem less credible, helped by the poor image of media owners. Basescu called them “media moguls,” and the label stuck. A conflict rose among journalists, with Basescu's enemies vigorously attacking any journalist who might have said a nice word about the president. At the same time, the other side called the anti-Basescu journalists puppets of their owners.

The 2008 parliamentary elections failed to produce a convincing majority. The Liberal Party of PM Tariceanu took 20%. Basescu's Democrat Liberal Party (the PDL, renamed after receiving some pro-Basescu liberal defectors) and the old PSD, led now by the former diplomat Mircea Geoana, again finished neck and neck with about 30%, and with PDL having only two more MPs. The agreement between Liberals and Social Democrats to force the hand of Basescu in appointing their prime minister failed, and a historic deal was made between PDL and PSD.

Emil Boc, the formal leader of PDL and Basescu's right-hand man, was appointed prime minister, and Geoana took the second state position as leader of the

Senate. The two parties shared the ministries equally, but this grand coalition lasted less than a year. The PSD left the government and a new party was created within the Parliament from Liberals and PSD defectors. This new party supported Emil Boc as prime minister and a new clear pro-presidential majority was created. Basescu finally saw his dream to control the government come true. But this came when a severe economic crisis hit Romania, and Boc had to cut public spending, including public sector wages and pensions.<sup>2</sup>

The new measures were unpopular, and the government's popularity and Basescu's personal rating dropped to historic lows. The hostility between the president and a large part of Romanian media had perverse effects for both. The president needed public support for the necessary measures to reduce public spending, but the media blamed him for all the country's economic problems. The media was one of the industries most affected by the economic crises, but the political wars the media outlets were engaged in made them vulnerable.

## **2. The media landscape in Romania**

### **2.1 The media market**

#### *The print media*

More than 1,200 new titles flooded the market within a year after the Romanian 1989 revolution. Twenty years later, there are still about 20 Bucharest-based daily newspapers, 14 of them with reliable circulation figures. The larger cities in the country have three to four local daily newspapers, although few are able to function as market-oriented outlets. Most are essentially covert public relations operations for local politicians and business circles.

The Romanian Audit Bureau of Circulation (BRAT) was founded in 1998 as an independent, not-for-profit organisation to provide reliable circulation figures. It was a civic initiative that included big advertisers and the main newspapers, and it represented a significant step forward for the media industry. Most advertising agencies have set the existence of a BRAT certificate as a precondition for allocating any advertising contract. The system is largely functional but is still often perverted by the influence of the state and the powerful position of the intermediaries – especially advertising agencies that give huge rebates, mostly for the personal benefit of some of the industry's executives. BRAT also developed the National Readership Survey (SNA), a research tool that approximates the total number of readers for publications and establishes their demographic profiles.

BRAT currently audits 14 national newspapers, 65 local and regional dailies, and 150 weekly and monthly publications.<sup>3</sup>

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<sup>2</sup> The Constitutional Court later rejected the decision to reduce pensions, which forced the government to increase the VAT.

<sup>3</sup> Audit Bureau of Circulations (BRAT), official website available at: [www.brat.ro](http://www.brat.ro) (last visited on 03/08/2010).

**Table 1: Top 10 national dailies**

	<b>Title</b>	<b>Circulation</b>	<b>Category of journalism</b>
1	Click	332,279	Yellow
2	Libertatea	209,465	Yellow
3	Adevarul	141,330	Quality
4	Cancan	114,790	Yellow
5	Jurnalul National	77,914	Quality
6	Gazeta Sporturilor	69,145	Sport
7	Romania Libera	59,685	Quality
8	PRO Sport	54,713	Sport
9	Evenimentul Zilei	40,635	Quality
10	Gandul	26,733	Quality
	<b>Total</b>	<b>1,126,689</b>	

Note that dailies in the yellow journalism category hold three of the top five spots. The only quality newspaper with more than 100,000 circulation is Adevarul, which has an aggressive promotional policy with permanent inserts (books, movies, DVDs). The numbers for Adevarul represent a mean for the audited period; without the inserts, its circulation is half of this figure.

**Table 2: Top 10 regional and local dailies**

	<b>Title</b>	<b>Circulation</b>	<b>Region</b>
1	Gazeta de Sud	22,271	Oltenia, south west
2	Unirea	21,255	Transylvania, west
3	Jurnal Aradean	18,751	Banat, west
4	Jurnal Bihorean	14,364	Western Transylvania
5	Informatia Zilei	14,300	Northern Transylvania
6	Bihari Naplo	13,420	Western Transylvania (Hungarian language)
7	Renasterea Banateana	12,944	Banat, west
8	Viata Libera	9,333	Southern Moldova
9	Monitorul de Suceava	9,304	Northern Moldova
10	Editie speciala	9,215	Oltenia, south west
	<b>Total</b>	<b>145,157</b>	

The print media's distribution system is a continuing problem. Rodipet was once the state monopoly for press distribution, but it was inefficient, consistently delayed payments to media outlets, and often paid in a preferential order. Despite controversy, the company was privatised but remained inefficient, lost market share and in 2009 went bankrupt. This caused losses of about 300,000 to 400,000 euro for the major publishing companies. One of them, Adevarul Holding,<sup>4</sup> lost 1,000,000 euro. Some of the media conglomerates started their own distribution services. Adevarul Holding is leading the way, after suffering the huge loss from Rodipet's bankruptcy. But the distribution market is fragmented, with many local or regional players. A newspaper trying to cover the entire national territory has to deal with numerous minor players, with separate contracts and inefficient payment systems. As for the subscribers, the Romanian Post Company is notoriously inefficient and distributes the newspapers in the afternoon, which makes the subscription system unattractive.

### *The broadcast media*

Besides the six public television channels, there are eight generalist TV stations in Romania, three sports-oriented stations and four news stations. Realitatea TV started in 2001 as the first news station, trying to follow CNN's model. Limited resources forced it to offer a combination of news (mostly national, with limited interest in foreign affairs) and endless talk shows. Realitatea never attracted large audiences but it did make the politicians' agenda. Thus the model was copied.

Antena 3 was the second TV news station, and its more aggressive attitude attracted some attention. Antena 3 was also firmly anti-Basescu, and largely seen as a propaganda tool against the President. But after a conflict between Basescu and Realitatea TV's owner, that station also turned against Basescu. The two now compete to see which can be more anti-Basescu. The President's response was to try to create his own news station, Vox TV, formally owned by a business person seen as close to Basescu. But the new station failed to become an influential voice. In 2008, public TV launched its own news station, but because of a lack of investment it remains largely ignored.

The way these TV news stations operate might be seen as a metaphor for Romanian media: extreme fragmentation, politicisation and preferential arrangements between the owners and the state.

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<sup>4</sup> "Cel mai negru an al presei scrise: 50 de milioane de euro pierderi în 2009" [The toughest year of print media: 50 million euro loss in 2009], paginademedi.ro, 23/07/2010, available at: <http://www.paginademedi.ro/2010/07/cel-mai-negru-an-al-presei-scrise-50-de-milioane-de-euro-pierderi-in-2009/> (last visited on 10/10/2010).

**Table 3: Top ten TV stations (in prime time, for 2008<sup>5</sup>)**

	<b>TV station</b>	<b>Thousands of viewers</b>	<b>Profile</b>
1	Pro TV	719	Generalist, entertaining
2	Antena 1	540	Generalist, entertaining
3	Acasa	403	Women's magazines
4	TVR 1	270	First channel of public TV
5	Prima TV	230	Generalist, entertaining
6	Kanal D	201	Generalist, entertaining
7	Realitatea TV	164	News
8	OTV	162	Generalist, entertaining
9	Antena 3	120	News
10	National TV	112	Generalist, entertaining

### *Public television and radio*

Romanian Television (TVR) has six channels, but its influence has faded in the past few years, with its audiences collapsing. Mismanagement and political influence over the company took their toll. TVR is far from the powerful political instrument it was in 1990s. It looks now to be a behemoth incapable of reform, losing the battle with private stations. The main problem seems to be the direct link between the electoral cycles and TVR's management changes. Under a 1995 law, TVR's board of directors is appointed by the Parliament, the President and the government. Employees also elect their representative on the board. Although officially the board's term of office is not linked to a change of the majority in Parliament, the legislature can dismiss the board. Each new government treats TVR as being among the victor's spoils.

Efforts were made to change the law, and after 2004 a draft was negotiated in Parliament with the media freedom NGOs. The groups had endorsed the final version prepared by Raluca Turcan, head of the Media and Culture Committee of Parliament. But political tensions killed the project. Turcan was among the liberals to defect in Basescu's party, and she lost her position within the Parliament. Basescu refused to appoint his own representatives to the board of TVR until the law was changed. But PSD and the liberals went on, appointing their own people to the board and capturing TVR for the following years. Alexandru Sassu was named general director of TVR, coming directly from the position of PR chief executive of PSD. This was against the tradition of appointing professionals to lead TVR, although each party had its own preferred professionals. Sassu's appointment was a direct recognition that TVR was an instrument for his party. During his term, TVR lost audience share and is now in the second tier of Romanian television. After the 2008 elections, Traian Basescu took his revenge. He ignored the plan to change the 1995 law, and his party now dominates TVR's board. Sassu was replaced by Alexandru Lazescu.

<sup>5</sup> "Audiențe TV" [Number of TV viewers], [Paginademedi.ro](http://www.paginademedi.ro), available at: <http://www.paginademedi.ro/audiente-tv/> (last visited on 12/10/2010).

But the way general directors are now appointed is only part of TVR's problem. After years of politicisation and neglect, TVR has structural problems. First, the political parties negotiate among them the places in the board. The people thus appointed act openly as representatives of their parties. They see their role as making the president of the party look good on TVR news. Second, after politicisation came incompetence and a lack of accountability. In the second half of 2008, TVR launched two new channels, including TVR Info, a news station. But TVR Info mostly transmits live static images from several public locations. TVR is directly subsidised by Romanians through compulsory subscriptions for households and companies. Though it has this competitive advantage over private stations, it still lost viewers. Between 2004 and 2008, TVR registered a 73% decline in total audience and its financial deficit for 2007 totalled 8.8 million euro.<sup>6</sup> TVR's management of human resources also is a problem, with its perverse system of incentives. Though wages are substantial, they do not depend on performance. After conflicts with the management, some pre-eminent personalities at TVR were sidelined but continued to receive their salaries, because their jobs are protected by law. The situation is further complicated by powerful unions (which are concerned only with salaries and benefits, not ethical issues) and highly restrictive rules for hiring, promoting, punishing and firing people.

While less exposed to political scandals and pressure, public radio is in only slightly better shape. Maria Toghina, the young reformist manager appointed in 2005, actually limited reform initiatives to surface changes in order to preserve the status quo. She was replaced in 2009 by a representative of the Hungarian minority party, part of a larger deal within the government coalition.

#### *Advertisement market*

In Romania, 2008 represented an advertisement market peak, with about 540 million euro spent, the lion's share going to TV stations. The biggest advertisers are the multinational companies such as Procter & Gamble, L'Oreal, Unilever, and Coca-Cola.

**Table 4: Total advertisement spending in Romania – 2006-2010<sup>7</sup> (million euro)**

<b>Media category / Year</b>	<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>
<b>TV</b>	209	222	337	306	229
<b>Print</b>	27	37	82	79	71
<b>Radio</b>	23	25	35	30	23
<b>Out-door</b>	35	42	70	58	40
<b>Internet, Cinema</b>	14	13	16	9	6
<b>Total</b>	308	339	540	482	369

<sup>6</sup> P. Barbu, "TVR este în criză de bani și audiență" [The Romanian public television faces a crisis of money and audience], *Adevarul*, 22/01/2009, available at: <http://www.mediafax.ro/revista-presei/tvr-este-in-criza-de-bani-si-audienta-3783061> (last visited on 10/10/2010).

<sup>7</sup> Figures provided by Initiative monitoring company, published in *paginademedi.ro*, available at: <http://www.paginademedi.ro/cifre-utile> (last visited on 10/10/2010).

Note the sharp decline in 2009 and 2010 caused by the economic crisis. As the advertising budgets of companies decreased, they tended to concentrate on what they considered the most effective media – TV stations. Thus the print media was disproportionately affected. An independent analysis of the fiscal declarations of media companies indicated that the print media lost 50 million euro in 2009.<sup>8</sup> Comparing this figure with the above table, it is evident that in 2009 the print media lost more money than total advertising revenue. Two of the pre-eminent central newspapers – Ziua and Cotidianul – closed in 2009. All media companies were forced to lay off employees, cut wages, or both.

### *Media online*

According to the International Telecommunication Union (ITU), the leading United Nations agency for information and communication technology issues, 35.5% of Romanians have Internet access in 2010, and the pace of growth is significant.

**Table 5: Internet Usage and Population Statistics**

<b>Year</b>	<b>No. of Users</b>	<b>Total Population</b>	<b>% Pop.</b>	<b>Usage Source</b>
2000	800,000	22,217,700	3.6 %	ITU
2004	4,000,000	21,377,426	18.7 %	ITU
2006	4,940,000	21,154,226	23.4 %	C.I. Almanac
2007	5,062,500	21,154,226	23.9 %	ITU
2010	7,786,700	21,959,278	35.5 %	ITU

The online outlets are growing fast and have begun to compete with mainstream media. The online news portal Hotnews.ro remained one of the few independent influential voices operating outside the major media conglomerates. It often succeeds in shaping the public agenda. The online outlet also hired some reputable journalists from radio and TV who had fallen out of favour with big media owners. All print newspapers have an online version, even the smaller ones, and they often gather more readers than their print versions. Because the online advertising market is still limited, the online success of newspapers only aggravates their economic troubles. Some of the print outlets that failed to survive the economic crises remained online only, hoping to maintain their core readers until the situation improves.

In 2008, BRAT started to audit the websites' audiences. The new service is contested in the industry, which is hesitant to accept a unitary monitoring system, as was the case with print media 10 years before.

Facebook started later in Romania and still does not have its Code of Conduct translated into Romanian. It regained ground in 2009–2010, and now has more than 1.3 million Romanian users, 10 times more than the previous year. Women represent 52% and men 47% of the users. Most are 18-27 years old, and 24% of Romanians

<sup>8</sup> "Cel mai negru an al presei scrise: 50 de milioane de euro pierderi în 2009", [Paginademedia.ro](http://Paginademedia.ro).

who are 19 years old have a user account, with 22% of 21 year olds. Only 6% of people 30-40 years old have a Facebook account. In Eastern Europe, Romania is behind Serbia, Bulgaria and Hungary but ahead of Moldova and Ukraine in the number of users.<sup>9</sup> Facebook is often used to organise spontaneous protests, as in September 2010 when over 70 journalists organised a flash mob outside the Finance Ministry to protest changes in the tax system. Blogging was a trend in 2007–2009, sparking debate over whether blogs would replace traditional media. Several prominent bloggers maintained public sites, but only several succeeding in making a living from blogging. The number of active blogs is now decreasing, and twittering appears to be the latest fad.

### *News agencies*

The most important news agency is the privately owned Mediafax, which has been the dominant player on the market for the past decade. The state-owned AgerPress is largely irrelevant, both for the general public and for the journalists, because of its poor reporting. AgerPress is formally controlled by the Parliament, but because it is powerless to influence the public agenda, the legislature shows no interest in it.

Many editors complained that Mediafax's dominant position led to high prices, and an important new player arrived in 2006. The media group owned by Sorin Ovidiu Vintu (see the section on media conglomerates) launched the NewsIn agency to compete with Mediafax. The competition forced Mediafax to decrease prices and to be more flexible in negotiating contracts. But NewsIn did not survive the economic crises and in 2009 became a limited online operation.

### *Media concentration*

We described in the introduction the changes in Romanian media after 1989, from a phase in which the state and journalists were competing for power, to the current situation in which the main media outlets have become concentrated in the hands of powerful businessmen. There are five major media concentrations in Romania, and we will describe them starting with the person who controls them:

- **Sorin Ovidiu Vantu:** A highly controversial businessman who prefers to keep a low personal profile. Though he had been convicted of common felonies during the communist period, Vantu built his fortune by organising a network of former Securitate agents. In the late 1990s, he organised an investment fund that was in fact a Ponzi scheme that benefited from protection within the state. The fund eventually deprived 300,000 Romanians of their life savings. Some of the managers were prosecuted, but not Vantu. The media savagely attacked him, but Vantu later began to build his own media empire. He bought the first Romanian news TV station, Realitatea TV, using an off-shore entity registered in Cyprus, though he later acknowledged that he owned the TV station. From 2006 to 2009, Vantu expanded his empire to 14 print outlets, three television stations and a radio network. He had a policy of aggressively attracting journalists from other outlets with high salaries, and ended up having on his payrolls most of the pre-eminent journalists. This venture was never profitable, and it collapsed in 2010 when Vantu

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<sup>9</sup> Internet World Stats, usage and population statistics, "Romania", available at: <http://www.internetworldstats.com/eu/ro.htm> (last visited on 03/08/2010).

restructured his investments. He sold all publications to their employees, but most of the outlets later disappeared. He closed the radio network and kept only Realitatea TV, because of the station's influence. Vantu was openly involved in the 2009 presidential campaign, calling for the other parties to isolate Traian Basescu, whom he called dangerous. Basescu in turn attacked Vantu, calling him an example of the oligarchy that threatens Romania. Basescu's opponent, Mircea Geoana, paid a controversial night visit to Vantu four days before the election run-off. Basescu asked about this visit in the final electoral debate, taking everybody by surprise, including Geoana, who did not have a reasonable explanation. Many think this incident cost Geoana the victory, since Basescu won by only several thousand votes.

- **Dinu Patriciu:** Another highly controversial businessman and former liberal politician, Patriciu is the richest Romanian. He was involved in the oil industry and later was prosecuted for manipulating the stock exchange. He became involved in the media industry quite recently, buying the newspaper Adevarul and creating Adevarul Holding, a network of print outlets with an aggressive marketing strategy. Adevarul Holding now owns the top circulation newspapers in the yellow and quality segments (see table 1). Patriciu is an old enemy of Traian Basescu, and they often publicly attack each other with harsh remarks.
- **Adrian Sarbu:** The only one among the so-called “media moguls” whose business is only in media. Sarbu created the first private news agency, Mediafax, in the early 1990s and the first professional private TV station, ProTV, in 1995. He later sold them to CME, a regional media organisation, and remained as CEO of the company. CME has outlets in Czech Republic and Bulgaria. Sarbu controls five television stations (Pro TV remains the leading TV station in Romania), several Bucharest-based publications, one radio network, a network of local newspapers, and the main news agency. He has not been involved in politics except during the Nastase government. A persistent rumour at that time was that he made a deal for positive coverage of the prime minister in exchange for delaying some debts payment the company owed to the state. Pro TV and other outlets he owned then almost completely withdrew from reporting politics, concentrating on entertainment, which is still the case. In 2008,<sup>10</sup> the TV stations he controlled received 36% of the total TV advertising volume in Romania.
- **Dan Voiculescu:** A former agent of Securitate (declared as such by the Romanian equivalent of the Gauck Commission), Voiculescu was said to have confiscated the shadow money that Nicolae Ceausescu owned in foreign accounts – an accusation he vehemently denies. Voiculescu made money in the early 1990s in foreign trade, an industry that was then still controlled by the state. Later he made money on favourable deals with the state in the energy sector. He started his media empire by creating Jurnalul National, one of the first private newspapers, and later with Antena 1, the second private TV station. He controls five television stations, six Bucharest-based publications, and a number of radio stations. His TV stations received 18% of total TV advertising money in 2008.<sup>11</sup> Most notably, his company

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<sup>10</sup> P. Barbu, “Cum a fost împărțit *tortul* reclamelor TV” [How was the advertisement's pie split?], Adevarul, 13/01/2009, available at: [http://www.ziaresireviste.ro/index.php?page=revista\\_presei&details=on&id=20108](http://www.ziaresireviste.ro/index.php?page=revista_presei&details=on&id=20108) (last visited on 10/10/2010).

<sup>11</sup> Ibid.

launched Antena 3, the second TV news station, which takes sides openly in politics. In the late 1990s, Voiculescu founded the Conservative Party (PC), a small party that despite its name is left-leaning. PC never entered Parliament on its own merits, but made deals with the Social Democrat Party to receive eligible places on the tickets in exchange for positive coverage for PSD in Voiculescu's media. He was vice president of the Senate and led the parliamentary committee (called the Voiculescu Committee), which started the prosecution that led to Traian Basescu's impeachment in 2007. He is a fierce opponent of the President, and his media outlets have always been openly anti-Basescu.

- **Ringier:** This foreign company based in Switzerland was the biggest foreign investor in Romanian media for many years. At one point, Ringier controlled the leading quality newspaper (Evenimentul Zilei), the leading sport newspaper, the leading yellow daily (Libertatea), and the leading economic publication (Capital). But its market share had declined, and it sold Evenimentul Zilei and Capital to the Paunescu family (see below). Ringier is seen now as a minor player, only owning Libertatea. Serious rumours suggest that the company will soon abandon its operations in Romania.
- **George Constantin Paunescu:** He was a trader and banker during Ceausescu's regime and thus always suspected of having connections with the former Securitate. He made a fortune in the 1990s by taking loans from the state-controlled banks but never paying back the money. His brother (a former official journalist during communism) founded Curierul National newspaper in the early 1990s. Later, the family founded B1 TV, a small station with limited influence. In 2009, the Paunescu family entered the big league of Romanian media by buying the influential Evenimentul Zilei. Since its TV station, B1, was the only one that supported Basescu in the 2009 presidential election, the move was largely seen as an attempt by the President's party to develop a friendly media conglomerate to balance the hostile ones, using the Paunescu family as intermediaries.

In 2008, the six conglomerates controlled about 90% of national newspapers in terms of circulation. They had 45% of the television audience market,<sup>12</sup> counting together the outlets now owned by Ringier and the Paunescu family. Property concentration seems to be a natural process, and having six conglomerates presents no obvious monopoly danger. Still, when these conglomerates tend to orchestrate their positions, a cartelisation occurs. This was the case in the electoral campaigns in 2007 (the impeachment referendum), 2008 (parliamentary elections) and 2009 (presidential elections).

Some disagreement existed among the big owners. In 2004, a media war broke out between Sorin Ovidiu Vantu and Dan Voiculescu, each using his own outlets to attack the other. Accusations of illegal acts by Vantu flooded Voiculescu's outlets, and vice versa. But the old enemies were later united by their mutual antagonism toward Traian Basescu.

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<sup>12</sup> I. Comanescu, "Cum s-a impartit presa la mogulii in 2008" [How the press was split between moguls in 2008], available at: <http://www.comanescu.ro/cum-s-a-impartit-presa-la-moguli-in-2008.html> (last visited on 10/10/2010).

## 2.2 Journalists' background and education

In Romania, there are no formal barriers to becoming a journalist. One of the leading journalists' associations discussed the possibility of requiring licences to enter the profession, but the idea was dropped. Journalists do need accreditation to enter certain institutions. The Freedom of Information Act adopted in 2001 has a special chapter meant to protect journalists. This came after some abuses committed by Parliament against journalists who reported on the institution's spending. The act specifies restrictive conditions in which accreditation could be withdrawn if a journalist seriously disrupts an institution's activity.

There are 20 university journalism programs in Romania, both public and private. The average number of students per class is 60, so a large number of young would-be journalists graduate each year. But professionals in the field have doubts about their practical skills. A focus group consisting of senior editorial staff concluded that less than 20% of those who enter the profession graduated from journalism programs.<sup>13</sup>

Work force legislation in Romania is inflexible and encourages collective bargains, but is seldom implemented. In each industry, trade unions and owners' associations negotiate collective contracts that become compulsory for the entire industry. The negotiators often are not representative, as both union and owners' organisations are fragmented. A trade union that represents the journalists (although few actually belong to the organisation) signed such a collective contract with an owners' association that did not include media businesses. The contract nevertheless became compulsory, on paper, though it was largely ignored. After this contract, the minimum wage for the media industry is the national one plus 10%. Between 2005 and 2008, the media boom led to an inflation in journalists' salaries, and those with experience usually earned five to 10 times the national average wage. The entry level wage in a national newspaper was about 500 to 600 euro, while at the middle level the average was 2000 to 3000 euro. A particular problem was the widespread practice of splitting these amounts among permanent working contracts (with the minimum wage) and paying the rest in temporary intellectual rights contracts to avoid paying benefits such as pension and health insurance. Successive governments accepted this situation, although it was illegal, and the practice was seen as an informal form of subsidising the media industry.

In 2009 and 2010, with the decrease in advertising revenue, most media outlets fired people – up to 50% of the employees in Sorin Ovidiu Vantu's company. Dan Voiculescu and Adrian Sarbu cut wages 20 to 30%. To make matters worse, the state suddenly became severe with the previously accepted practice of avoiding social taxation. It was found that at Vantu's company, even drivers were paid using the intellectual rights contracts. Fiscal authorities later leaked information about journalists' earnings to an obscure newspaper. In August 2010, the government changed the law, practically forbidding the intellectual property contracts, renaming them "independent activities" and imposing social duties on them. To pay the new taxes, each journalist (but also actors, painters, and others) had to go each month to three different institutions – pension, health and employment authorities. This infuriated the journalists, and a petition calling for a fiscal strike was signed by more than 6000 people in August and September. The government changed the payment

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<sup>13</sup> Media Sustainability Index 2008, "Romania", available at: [http://pdf.usaid.gov/pdf\\_docs/PNADL578.pdf](http://pdf.usaid.gov/pdf_docs/PNADL578.pdf) (last visited on 05/10/2010).

method, but the new taxation remained in place, further decreasing media industry revenue.

### **2.3 Media literacy and media status in society**

Entertainment TV draws the top audiences for television and yellow journalism the top circulation for print media (see tables above). Yellow and sport print newspapers have about 80% of total circulation. The editors blame the public for this trend,<sup>14</sup> saying they just provide what their readers and viewers want: stories about rapes, crimes and shallow lifestyles. One recent phenomenon became known as OTV-sation. OTV is a local station, started with limited resources by Dan Diaconescu, a journalist. Without money to buy or produce content, Diaconescu simply transmitted live shows with bizarre topics and characters, mostly involving crime. He approached politics only as a matter of conspiracy and populism. OTV had some success, and gained some legitimacy because Diaconescu often invited President Basescu to appear on air. The President said he accepted because he needed to communicate with the people, since the other television stations were hostile toward him. As Diaconescu seemed to attract audiences, his practices were copied by mainstream outlets. This created the OTV-sation trend, in which crime and lifestyle stories also dominate the main news programs of mainstream stations. Diaconescu built a personal fortune of 30 million euro by taking unofficial payments from everyone who wanted to appear on his shows. In 2010, the National Anti-Corruption Office arrested Diaconescu and accused him of blackmailing a local mayor. He was later released and claimed the case was politically motivated. He declared himself disappointed by the entire political class and announced the formation of Party of the People. OTV suddenly became a live show on how to create a new party. The party is estimated by some opinion polls to have attracted about 10% of voters.

The war between President Basescu and the media owners had a collateral victim: journalists who try to maintain balance and independence in their reporting. The President often attacked journalists indiscriminately. This caused his supporters to react sharply to any criticism of Basescu, no matter how accurate. Because the other side also attacked journalists without making distinctions, some professionals abandoned journalism all together, saying the atmosphere had become too toxic.

## **3. Media policy in Romania**

### **3.1 Actors of media policy and regulation**

No ministries or other executive branches of government oversee Romanian media. Public television is managed by a board whose members are appointed by the President, the government and the Parliament. The state-owned news agency, AgerPress, is under direct parliamentary control. But the regulations for print media and electronic media differ significantly. There are no legal rules for print media, other than general legislation, and there is no state body to control print media. But TV and radio have special legislation on licensing, monitoring and limits on content. The National Council of Broadcasting (NAC), which is formally an autonomous body subordinated to the Parliament, implements the rules. The eleven NAC members are appointed by the President, the government, and the Parliament. As in the case of

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<sup>14</sup> Explanation offered for the Media Sustainability Index 2009, "Romania".

public television's board, however, this formal arrangement does not prevent the politicisation and political wars around the institution. The current president of NAC was appointed at the same time as Alexandru Sassu at TVR (see the previous chapter) as part of a deal between liberals and social democrats. NAC went to liberals, public television to the social democrats. The institution was fiercely criticised for how it managed the licensing process.<sup>15</sup> Each company that wants to obtain a licence has to present a complete dossier on content. But the process of evaluating the dossier was subjective and political favouritism was alleged. Since 2008 there have been no more scandals about licences, since there were no more airwave licenses to grant.

With all its problems, NAC plays an important role in maintaining minimal decency standards for TV stations. Its most prominent "client" is OTV. NAC imposed numerous fines against OTV and even ordered a three-hour interruption of its broadcasting. Despite its attempts, NAC seems too weak to fight the trend toward triviality on Romanian television. OTC fought back and launched a campaign against CAN, with the slogan "Hands off the people's television." Although it was in its legal right to remove the station's licence, NAC did not take that step. CAN also has other permanent "clients," such as Mircea Badea, a television host who uses injurious language and even threatens to physically assault people who annoy him.

Both OTV and Mircea Badea are popular and have good ratings, which makes NAC an unpopular body. It is not helped in its attempts to regulate the media by the secrecy in which its collective decisions are made and the lack of an appealing president or spokesperson to represent the institution in public debates. Some of its members' behaviour further weakens the institution's position. For instance, a person appointed by the President of Romania to NAC was later openly involved in the President's electoral campaign. NAC has also taken on some debatable cases, such as the fines it decided to levy against some radio hosts who mocked the poetry of the "national poet" Mihai Eminescu. But such actions are allowed under freedom of expression, without violating the decency principles, which should be NAC's main focus. In another case, NAC forbade a television advertisement about a group of workers destroying some architectural artifacts, saying the public might follow their example.

The Romanian Press Club (RPC) was once the most influential media organisation in Romania. Its history provides a good illustration of how the Romanian media has changed since the 1990s. The club was created in late 1990s as an association of powerful editors and journalists who were in control of the media at that time. It was led by Dumitru Tinu, the leader of *Adevarul* newspaper. Tinu was himself a controversial figure. After the privatisation of the newspaper, the shares were distributed among the journalists. Tinu bought the shares from his colleagues, but the source of the money was never revealed. Tinu died in 2001, and the newspaper was bought from his family by Dinu Patriciu, who created the current *Adevarul* Holding around it. Under Tinu's leadership, the club behaved as a close circle of powerful insiders who wanted to influence the government to their benefit. One of the informal rules that was rumoured to be in effect during that period said that members of the RPC would not hire a journalist who resigned (or was ousted) from another media outlet member of the club as the result of a conflict with management. After 2001, the club was led by Cristian Tudor Popescu, a charismatic journalist who worked with Tinu at *Adevarul* but left the newspaper after Tinu's death to create his

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<sup>15</sup> Media Sustainability Index 2005, 2006 and 2007 "Romania".

own publication. Popescu was more respected by the community and tried for several years to open up the club, forming partnerships with the media specialised NGOs. But the club itself had to change because the media industry changed. All the powerful editors who controlled the newspapers sold them to investors, either foreign companies or local business persons. Thus, the club was led formally by a journalist, but the majority of its members were now corporate representatives of media conglomerates. The new media moguls were able to strike a deal with the politicians on their own and did not need the club. After he sold his newspaper to Adrian Sarbu, Popescu tried to rally the journalists against the owners. He split the club into two separate organisations. The old club remained a representative of the owners and is now led by a low-profile person working for Sarbu. Under Popescu's plan, the journalists who formerly belonged to the club were supposed to create the Association of Professional Journalists to represent them. The association was created but is largely dormant. The rise and fall of the Romanian Press Club reflects the short story of the decline of the journalists' power and the rise of the owners' influence.

Journalists in Romania remain generally sceptical of joining a trade union. MediaSind union started as a marginal voice, became more vocal during the economic crisis, but still was unable to do anything about the layoffs and salary cuts. Few journalists belong to the union, which is mostly based in the public outlets. In 2004, MediaSind signed a collective contract for the media industry with an association of owners that did not include media businesses. The companies represented in the Romanian Press Club rejected the contract and never fully implemented it.<sup>16</sup> The contract also established "the clause of conscience" as one of the fundamental labour rights for journalists, although the clause was not used by the journalists in their conflicts with the owners.

The Association of Local Publishers (APEL) gathers the most important local newspapers in terms of circulation, mainly those audited by BRAT, the circulation auditing office. APEL represented its members in some important conflicts, especially with the Romanian Post Office, which tried to increase its fees on the distribution contracts. APEL also supported some training and best practices projects for members who are interested in dissociating themselves from the majority of local newspapers, which do not have reliable circulation numbers.

Broadcasters have their own organisation, called the ARCA, which acts as a typical lobbying group in the interests of the industry. It is not involved in editorial matters. There are about 40 journalists' associations organised as NGOs, but most are low-profile, inactive or ineffective. There are some traditional media watchdog NGOs. Most important are the Centre for Independent Journalism (CIJ), Media Monitoring Agency, and the Romanian Helsinki Committee. They were traditionally financed by money from international donors supporting democratisation. After 2007, when Romania entered the European Union, the groups began to face financial difficulties because the country is now considered a mature democracy, and donors shifted their attention to other regions. The NGOs act as an informal coalition on political issues involving the media, for example, on legislation before the Parliament. They also try to create legal precedents by focusing on controversial cases involving freedom of expression.

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<sup>16</sup> The contract is compulsory for the industry under the law, but the state showed little appetite for enforcing it.

## **3.2 The media regulatory framework**

### **3.2.1 Freedom of expression and information**

Most experts agree<sup>17</sup> that there are no problems with the legal framework in Romania, but enforcement is often defective. Social and political attitudes threaten freedom of expression more than the laws and public institutions. The Romanian Constitution guarantees freedom of expression and of speech. Parliament also changed the penal code after pressure from the European Commission during accession negotiations. An article in the code against spreading false information that could damage the country's national interests was abandoned. In 2004, the burden of proof provisions were aligned with those of the European Court of Human Rights. In 2006, after much resistance, Parliament passed a law eliminating prison terms for libel. The Constitutional Court later ruled that the new law was unconstitutional, because a person's honour cannot be repaired with money and treated as a commercial matter. The court's decision should be followed by a revised law from Parliament, but lawmakers did not act upon it. Legal experts debate what is the current situation: should Romanian judges stop sentencing people to jail after the court's decision or should they fine them, following the law? Fortunately, no journalists have been sent to jail because of this provision, and the case seems to be tacitly settled in favour of abandoning jail terms.

But journalists have been fined large amounts as damages for their reporting. The mayor of Constanta, Radu Mazare, won a case against journalist Feri Predescu, who wrote about connections between the mayor and some controversial businessmen. Although her article was solidly documented, Predescu was ordered to pay 20,000 euro to the mayor.

### **3.2.2 Structural regulation**

The National Council of Broadcasting (NAC) is the body charged with issuing broadcast licences. NAC began operating in 1992 and distributed all available licences until 2008. There are now 387 television licences and 704 radio licences granted by NAC (national TV stations usually use local or regional licences to cover the national territory).<sup>18</sup> The granting process was controversial and politically influenced, because the media groups competed fiercely for them. In recent years, NAC has made some positive steps, becoming more transparent. Its website periodically publishes information about licence holders, including their shareholding structure. But NAC adopted a passive stance, publishing official information it receives from the broadcasters, even though there have been cases in which powerful people use intermediaries as formal owners. For example, Sorin Ovidiu Vantu controls a media empire without formally owning it.

The transparency of the ownership is not a serious problem in Romania, however, because everybody knows who owns what. The political war between the major media owners and President Basescu raised the visibility of the ownership. The owners are often the real media stars of their outlets, more so than the journalists.

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<sup>17</sup> Conclusion of the focus group organised for the Media Sustainability Index 2008 and 2009, "Romania".

<sup>18</sup> National Council of Broadcasting (NAC) official website, available at: <http://www.cna.ro/-English-.html> (last visited on 30/08/2010).

Print and Internet outlets have no legal requirement to disclose their ownership, although this information is widely available.

The broadcasting law (art. 44) contains a provision meant to prevent media concentration. The article states that no broadcaster should have more than 30% of a certain market. But it is unclear whether this is about audience, advertising or another indicator. It may also be the case that none of the six media conglomerates has such a dominant position, but this should be determined by NAC with a measuring instrument tailored to the provisions of Article 44.

There are no other restrictions on ownership. Local or international companies, associations or religious groups may start a media business in Romania.

### **3.2.3 Content regulation**

In order to obtain a licence from NAC, each broadcaster has to complete a dossier with details about the programs. The law contains no specific provisions, other than requiring a minimal amount of European production to balance American movie production. NAC is not active in monitoring the content, and there have been cases when broadcasters changed the content on which they obtained the licence. To protect children, there are provisions against pornography. Each TV program also has to specify the ages it addresses, and the programs for those older than 16 must be broadcast later in the night.

NAC created some special regulations to maintain the political balance of news and talk shows. This began in 2004, when the overwhelmingly positive coverage of the Nastase government triggered protests. NAC then required at least 30% of coverage be of the opposition's opinions. This regulation was ignored during the conflict between Basescu and the government, and it was difficult to determine who was in opposition. The major media's hostile coverage of Basescu also was ignored, because the NAC was dominated by representatives of the liberals and social democrats.

In 2008, liberal MP Iona Ghise and nationalist Gheorghe Funar co-sponsored a law that required television and radio stations to ensure that half of their news coverage consisted of "positive news." The exact definition of what is "positive" would have been determined by NAC, but the council publicly protested against the law, saying it was impossible to implement. Parliament nevertheless adopted the law, but it was later vetoed by President Basescu.

Various organisations have developed professional and ethics codes for journalists, but none has been consistently implemented. They are not even followed within the industry. The Romanian Press Club has its own ethics code but was not active in implementing it. The media companies have no internal codes and tend to solve problems on a case-by-case method.

Some high-profile scandals have occurred in recent years involving journalists breaching elementary ethics standards. Bogdan Chireac was the first journalist in Romania to resign because of a conflict of interest. He was deputy director and a shareholder of Gandul newspaper, which was founded and led by Cristian Tudor Popescu. Chireac was also a daily presence on TV screens as a security and foreign affairs analyst. At the same time, however, he secretly owned a company that sold communication equipment to the Romanian secret services – the same people he was

analysing on TV. Another newspaper published this information, and Chireac was forced to resign from the newspaper. He was later involved in a case in which, together with another controversial journalist, Sorin Rosca Stanescu, he blackmailed the president of the National Integrity Agency to obtain information about some ministers' foreign bank accounts. The Romanian Press Club and other media organisations protested his behaviour. After several months out of the public eye, Chireac is now a daily presence as a political pundit on Realitatea TV talk shows. His personal friendship with owner Sorin Ovidiu Vantu might explain his public survival despite the scandals.

#### **4. Media policy and democratic politics: an assessment**

The flowering and then the decline of Romanian media in the 20 years since the fall of communism seems to be a classic story of grandeur and decadence. The current domination of the industry and of the public agenda by a few media moguls also reflects the moral bankruptcy of several ideas that have shaped debates about the media for two decades:

**1) The state is bad:** The communist state's total dominance over society left deep marks in the collective memory. For a majority of Romanians, the state is bad on principle, even when it makes small attempts to regulate. Nevertheless they continue to expect jobs and social security from the state, as was the case with the communist state. "Give me all I want, but do not regulate me at all" is a common attitude. To be sure, the media's consistent stand against state regulation is grounded in the early 1990s, when journalists had to fight hard to win and maintain their autonomy from the state. By the late 1990s, the state had little influence over the rapidly expanding media industry. Since then, politicians have made numerous attempts to regulate media, but most in response to personal frustrations and were in fact attempts to restrain freedom of speech. A certain senator wants to forbid journalists from taking pictures of the official's villas. Two deputies want to force television stations to broadcast positive and negative news in equal proportions. A minister wants the newspapers to be obliged to publish replies in the same space and the same fonts and characters as the original article. These are only a few of the ideas that became draft laws over the years, creating tensions and raising protests from journalists before in the end being abandoned. It's not surprising that Romanian journalists see each new proposal by a politician concerning media as meant to create problems for them.

These two factors – the anti-statist mood inherited from the communist era and the early 1990s, and the unfortunate regulatory attempts in recent years – explain journalists' opposition to the idea that the state could be helpful at all.

We have argued that Romanian media's evolution after communism began as a fight between the state and journalists and now has resulted in the domination of the media industry by several local investors. The journalists have maintained the assumption that the state is bad, and state regulations are always mere attempts to curtail their freedoms. This actually paved the way for the dominance of the media moguls. The multinational media companies that were expected and welcomed in 1990s were unable to compete with local investors who were in search of political protection through the media. The state lost the battle but so did the journalists.

**2) Self-regulation works:** This was the mantra of the media NGO community, to which both authors of this paper belonged. Given the bad image of the

state and the negative expectations of the authorities, self-regulation was the only acceptable solution to the media's problems. But this proved to be an illusion. The story of the many ethics codes adopted by various associations and organisations, none of them properly implemented, is telling. The fragmented media market created fragmented professional authority. What one journalist found unacceptable, others found acceptable, and this created a race to the bottom in terms of ethics, principles and good journalistic practices. Quality journalism succumbed to the pressure of yellow journalism. Although the latter has bigger audiences all over Europe, in Romania basically no quality editorial operation functions as a sustainable business. You have to practice yellow journalism to survive economically.

**3) Private property is always good:** To be sure, a free market in Romanian media created some positive results. The big media companies that invested here (WAZ, Ringier, Sanoma Hearst) brought sound rules and protected their journalists. But they did not last. They lost the battle over private property, which came with strings attached.

These three false expectations are blocking attempts to find solutions to the Romanian media's problems. State intervention is suspect, self-regulation does not work, and relying on the free market made the media little more than an instrument for other economic and political interests. A moment in September 2010 is particularly relevant. Sorin Ovidiu Vantu, one of Romania's media moguls, was charged with helping a fugitive escape, and was arrested. Vantu made his fortune by organising an investment fund that functioned in fact as a Ponzi scheme. He acted using intermediaries, and Nicolae Popa was one of them. Popa was convicted of fraud and sentenced to 15 years in jail, but before being arrested he left Romania and was living as a fugitive in Indonesia. During all of this time, Vantu provided him money. Popa was finally arrested in Indonesia and was to be extradited to Romania. The Romanian prosecutors provided recordings in which Vantu is talking with Popa about money and strategies to avoid prosecution. Although the case was quite clear, Vantu's media outlets attacked the prosecutors and debated conspiracy theories about Basescu's interest in arresting Vantu. Many eminent journalists paid by Vantu defended him. The general impression was that a media owner is "more equal" than regular citizens, and that a case against them represents an attack on media freedom.

The only sustainable solution for Romanian media is to go back to basics. Relationships between the state, journalists and media owners need to be redefined. The state should be more active in enforcing the anti-concentration rules that already exist but are poorly implemented. Instead of proposing and supporting measures meant to punish journalists, Romanian politicians should debate with their organisations about how to regulate the industry intelligently. The main problems of the profession, which now is threatened more by the owners than by the state, need to be addressed. Serious rules against cross-ownership and media concentration, as well as enforcement of the journalists' rights as employees, could be acceptable forms of state regulation. But they must be openly negotiated with the journalists. Self-regulation still must prove its benefits, but it is the only solution for improving ethical standards. The state and its decision-makers should accept that ethics cannot be enforced by authorities' decisions. The state should support media NGOs and professional journalists' associations working to make self-regulation more effective.

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