

PRESS FREEDOM AND MEDIA PLURALISM IN ROMANIA: FACTS, MYTHS AND PARADOXES

Mihai Coman

The legal framework¹

The Constitution

Two of the 152 articles of the Romanian Constitution directly address freedom of expression (Article 30) and the right of Romanian citizens to information (Article 31). The Romanian Constitution guarantees freedom of expression (Section 2, Chapter 2, Article 30) in 'The Fundamental Rights and Freedoms of the People' (see Camera Deputatilor 2007) which mandates that:

1. Freedom of expression, of thoughts, opinions, or beliefs, and freedom of any creation, by words, in writing, in pictures, by sounds or other means of public communication are inviolable.
2. Any censorship shall be prohibited.
3. Freedom of the press also involves the freedom to establish publications.
4. No publications may be suppressed.
5. The law may impose upon the mass media the obligation to make public their source of financing.
6. Freedom of expression shall not be prejudicial to the dignity, honour, and privacy of a person, and the right to one's own image.
7. Any defamation of the country and the nation, any instigation to a war of aggression, to national, racial, class or religious hatred, any incitement to discrimination, territorial separatism, or public violence, as well as any obscene conduct contrary to morality shall be prohibited by law.
8. Civil liability for any information or creation made public falls upon the publisher or producer, the author, the producer of the artistic performance, the owner of the copying

facilities, radio or television station, under the terms laid down by law. The law shall establish the indictable offences of the press.

Romania's post-communist media function within a legal framework that is defined by the audio-visual law, the public radio and television law, and the Penal Code, which addresses defamation, insults, false information and other real and imagined harms to individuals, the state, the government and their institutions. Furthermore, this legal framework includes dubious access to information laws and a copyright law, which elicited passionate debate before it was enacted in 1996. The law was modified in September 2005 by the government and was accepted by the Parliament in 2006. What is absent from the post-communist panoply of laws is a press law.

The access to information law

A law concerning classified information was passed by the Parliament in 2001, but rejected by the Constitutional Court in April 2001. Prime Minister Adrian Nastase called for EU arbitration on this law. The heated debates in Parliament over the proposed law continued several years. The problem, it seemed, was that the law had a very wide and vague definition of 'state secrets', in contradiction to international democratic standards. The proposed law provided no protection for journalists and did not make any provisions for state secrets that passed into the public domain, for example. The lack of clarity and accuracy, it was feared, would mean that the restrictions on freedom of expression and of the press could be used to protect interests that were purely political and not public or state interests. Finally 'The Law on Access to Public Interest Information' was accepted by the Parliament in 2006 (Media Monitoring Agency 2007).

The law concerning the Romanian press agency

In 2001, the Romanian Parliament promoted a law addressing the status of the national press agency, Rompres. Midyear, a government decision attempted to place the agency under the control of the Ministry of Public Information. In the wake of protests by journalists, however, the Parliament decided to create a specific law, Law 19/2003 (regarding the organization and the functioning of the National Press Agency/Rompres), that placed Rompres under parliamentary control. In May 2007, a new project was launched for the debate in the Parliament.

The audio-visual law

Romania's Audio-Visual Law, signed into law by the Romanian president on 20 May 1992, was the second such law to be enacted in post-communist East-Central Europe. The law outlined the parameters for the distribution and awarding of licences to private radio and television stations, established the National Audio-Visual Council (CNA), and regulated the functioning of public radio and television stations. The CNA, made up of eleven members appointed by the government, the Romanian president and by parliament, has engendered continuous controversy since its establishment, being seen as another avenue for politicians to attempt to control the broadcast media. The Audio-Visual Law forbids the assigning of broadcast licences to 'political parties or other political formations' or to 'public authorities' (Article 6, Paragraph 4) and calls for 'pluralism of opinions, equality of the participants' treatment, and the quality

and diversity of programmes' to be the basis for deciding who gets a licence (Article 12, Paragraph 4). The law also explicitly states:

No public or private, natural or legal person shall be a direct or indirect majority investor or shareholder in more than one audio-visual communication company, and he/she shall not hold more than twenty per cent of the registered capital in other similar companies. (Article 6, Paragraph 1)

Furthermore, while allowing for foreign capital investments, inclusive of cable, the ownership of broadcast media has to be Romanian (Article 5, Paragraph 2 and 3; Article 7).

A new Audio-Visual Law enacted in 2002 and modelled after analogous European laws, relieved the CNA of the responsibility of assigning broadcast frequencies by establishing a new independent body, in charge of the technical issues (including frequency release). The law also introduced a unique provision for measuring radio and TV audiences, free of charge, for official use; the results of these surveys/polls are to be the basis for limitations on the maximum market share for broadcasters (30 per cent of the market at the national level, applicable to private broadcasters; 25 per cent at the regional or local levels, in order to avoid the control on the market by an individual owner or a media trust). Public tenders decide on the survey companies designated to measure the market shares for a period of four years, by means of a commission made up of five representatives of the Council, five from the audio-visual companies and five from advertising agencies.

Meanwhile, the audio-visual laws were trying to offer a solution for a paradoxical process: 're-regulate the media system in accordance with the new principles of a free market economy and political pluralism; de-regulate it in order to fit Western European trends' (Marinescu 2001: 84). In this respect, the indigenous legislative system and the evolution of the audio-visual phenomenon met both with 're-nationalization' and 'de-nationalization and privatization', phenomena considered by various analysts of post-communism as major trends during this period (Sparks and Reading 1998; Splichal 2001; Gross 2002). The preoccupation with a legislative solution for the relationship between the public and the commercial systems in the audio-visual area correlated with the failure to push a press law through Parliament and led to a special situation: the audio-visual is strictly regulated, while the written press is not restricted by a specific legal framework and functions according to 'permissive' rules.

In 2003, Romania ratified 'The European Convention on Transfrontier Television', making its provisions mandatory for public television.

The public radio and television law

Economic, political and even technical pressures demanded the rapid enactment of laws addressing commercial/private broadcasting. Only two years after the Audio-Visual Law had been accepted by the Parliament, 'The Law Concerning the Organization and Functioning of the Romanian Radio Society and the Romanian Television Society' was signed into law by President Ion Iliescu on 18 June 1994.

Romania's public radio and television are wrestling with the same problems that their brethren in the other post-Communist societies are facing. The public service institutions inhabit a nebulous space between the public and the state sphere, and enjoy only limited freedoms.

They are caught between the control and pressures exerted by the political institutions and the journalistic responsibility toward their public that is idealistically defined in their mandates. Ironically, in the strange twists of the transformation that is still in full swing, the regulations governing public broadcasting guarantee the right to correction and reply, whereas the commercial press and broadcast media are under no such legal obligations.

Defamation (libel and slander) and insults

In 1991, the Penal Code articles addressing defamation were 'changed only slightly to eliminate some of the more egregious communist-inspired elements' (Gross 1996: 82). After prolonged public debate, the Romanian Parliament made additional, major, revisions to the Penal Code, which retained articles that address defamation, insults and insults against individuals, particularly against government officials and parliamentarians. The provisions of the 1996 Penal Code, in a spirit reminiscent of the communist era, called for increased punishment of infractions committed through or by the mass media.

Journalists, representatives of Romanian civil society, and foreign journalism organizations have demanded that insult, slander and offence be treated as misdemeanours, not crimes. In 1998, following a proposal made by the Minister of Justice, a government order was issued to substitute the penal procedure with a civil one based on the payment of moral damages. However, it was vehemently attacked by the press because the amount of fines was very high: Journalists argued that it would be easier for a Court to pass a civil sentence against a journalist and that they would never have the resources to pay them. The project was withdrawn at the last minute to be replaced by a government decision concerning exemptions from judicial fees for certain legal processes, including those referring to defamation. This simply means that a new way of intimidating journalists was instituted, making it furthermore possible for a plaintiff to sue them in the civil court where damages ruinous to a journalist and a media outlet could be claimed. It generated numerous lawsuits, although there are no official statistics on the number of lawsuits and subsequent sentences. According to sources close to the Ministry of Justice, 400 defamation, offence and insult suits were initiated between 1996 and 2001. According to the Freedom of Expression (2007), the tabloid *Evenimentul Zilei* was hauled into court 318 times between 1997 and 2001; the daily *Ziua* was involved in 300 lawsuits and the daily *Adevarul* in 60.

The new draft of the Code was discussed with both civil society and the media community, and some important changes are being proposed. The amendments voted by the Parliaments in 2006 decriminalized insult, defamation and calumny; insults were no longer to be considered under criminal law, defamation was no longer to be punished with a prison sentence and the existing provisions regarding offence to state and nation, public officials and national symbols were to be dropped. Also noteworthy is that a journalist's defence against defamation was the notion of good faith, that is, that he/she had reasonable grounds to consider what is published to be true. However, in January 2007, the Constitutional Court rejected these changes and declared them to be 'unconstitutional'.

Other provisions of The Penal Code may affect the journalists' activities: (1) violation of privacy, interpreted to apply to entering public institutions (Article 276), (2) spreading false information that may start a war (Article 276); (3) hostile activities against another state that is a member of the North Atlantic Treaty Organization (NATO) and the European Union (EU)

(Article 279), (4) crimes against the dignity of people who enjoy international protection (for example, denying the Holocaust) (Article 280).

The numerous confrontations related to the Penal Code, both in Parliament and in the courts, reveal a paradoxical truth: when it comes to the battle against freedom of the press, the political class, whether on the right or left, in power or in opposition, bands together to maintain legal provisions perceived to benefit the political class. Investigative journalism can thus be curbed or minimized, either by harsh punishment mandated by law or just by the threat of such punishment.²

Professional body and self regulation mechanisms

Immediately after the fall of the communist regime, the number of journalists increased spectacularly: in 1989 there were 2,060 persons accredited as journalists and by 1992 The Romanian Society of Journalists' membership list, which did not include all journalists in the country, included 6,909 names; by 2000, there were an estimated 20,000 journalists (Petcu 2000: 20–1). This large professional group turns out to be generally heterogeneous in social origin, education, political beliefs and professional performance; between the dilettantism and quasi-professionalism exhibited by the journalists, the journalism practised is diverse, to say the least. The mechanism by which journalists are employed, the procedures for firing or promoting a journalist are not subject to transparent regulations; neither the professional associations nor media management did anything to institutionalize the mechanisms of access to or exclusion from journalism. There is no licensing requirement for journalists in Romania, a fact that is not surprising given the communist experience, and the membership in professional associations is not subject to actual journalistic work but is open to everybody interested.

Meanwhile various associations of owners have been established: the Association of Local Media Owners, the Association of Romanian Broadcasters (ARCA), the Association of Local Print Distributors, and the Romanian Press Club. The most active among these is the Romanian Press Club, which lobbies for owners' interests and attacks the Government every time a financial decision affects their interest, which also includes that of media leaders and journalists-managers. Professional associations are weak and display ambiguous missions: The Society of Journalists of Romania and the Association of Journalists of Romania functioned in the 1990s like unions and professional associations; the Union of Journalists of Romania, conceptualized as a trade union, did not arouse the interest of journalists and did not assert itself through any major union action; the numerous associations in the field (of journalists in sports, environment, tourism, photographers and so on) or of ethnic identity (of the ethnic Hungarian or German journalists) did not generate debates and neither did they produce any actions with a significant impact on the mass media. The Federation of Trade Unions of Journalists and Printers (see MediaSind 2007) was created in 2003; they claim to include 8,000 journalists. Starting in 2004, it has negotiated each year with the Association of Owners from Romania and press moguls a National Collective Labour Contract that formally guarantees the basic rights of journalists. When compared to other professions or occupations, journalism is characterized by a lack of solidarity; the ignoring of common professional interests can only be explained by the absence of an awareness of the joint objectives, of the adoption of a corporatist identity and especially of an inadequate professional culture.

Several attempts at establishing credible codes of ethics have been made public since 1989 – The Ethical Code of the Journalist, The Ethical Code of the National Radio and Television, The Ethical Code of the Romanian Press Club – but there is no sign that the provisions of these codes have been accepted, internalized, or respected by journalists or by editors. It is obvious that in such a fragmented environment there could be no homogeneous efforts or generally accepted codes of ethics; moreover, a common Code of Ethics would have increased the rights of journalists and would have reduced the capacity of control of the owners and managers.

In the first years of the twenty-first century, the profession has become increasingly split between the conception and practice of the media barons and that of the great mass of journalists. The euphoria and solidarity that marked the first moments of media freedom gradually disappeared and were replaced by battles to impose and assure control over resources – material, power and prestige – offered by the mass media system. The great majority of journalists came to depend on the decisions of the group of leaders without being protected by coherent legislation, professional rules, powerful associations and unions, or by cultural traditions that reinforce the respect for professional competencies. Most shocking is that the majority of those who have leadership positions – owners, majority shareholders, media managers – do not have a discourse that is consistent with the positions and strategies that they impose, with the values of a professional community, centred on the idea of belonging to this community and sharing its interests and ideals. In such circumstances, the concept of ‘the freedom of the press’ is very often used as just a slogan, behind which other interests are hiding.

Media landscape

The immediate post-communist evolution of the media is characterized by a rapid and chaotic increase in publications and circulations, in number of stations and audiences, followed by a slow stabilization from a quantitative point of view (the number of mass-media institutions) and from the qualitative point of view (clarifying the system of financing, defining the target audiences, separating the contents, organizing the editorial staff and making efforts to transform the journalists into professionals).

In the printed press, even though the number of titles grew, circulation dropped precipitously and has not rebounded to the levels held during the first few years of the post-communist era; by 2005 official data indicate a decrease in the number of dailies, and an upward development of magazines, testimony to a more specialized print media landscape that is still in flux (see Coman 2004; Coman and Gross 2006; Petcu 2000).

The local press also grew in numbers and circulation: 2,827 new local publications were launched after 1989, and of those, 400 were general interest publications. The ethnic minority

Table 1: Number of dailies and magazines in Romania 1989–2005.

	1989	1990	1993	1996	1999	2002	2005
Dailies	36	65	100	106	118	94	80
Magazines	459	1,379	987	1,313	1,868	1,853	2,044

Source: National Institute of Statistics 2006.

press in Romania followed the same pattern as the vernacular press, showing a rollercoaster evolution. The Romanian Statistical Yearbook (2004) reported 52 publications (eleven dailies and 41 magazines) in 1989 and 131 in 2005 (seven dailies and 124 magazines).

In 1989 the Romanian Radio Society broadcast 30,148 hours, by 1990 it reached 52,309 hours and 118,619 hours in 2002 (National Institute of Statistics 2006); it broadcasts on five channels: România Actualităţi (news), Radio Cultural and Radio Muzical (classical music) and Radio Tineret (youth), Antena satelor (rural programming, covers half of the southern part of the country) plus an international station; it has six territorial studios and had 2,301 employees in 2004. The dynamic of the private FM and AM broadcast stations is as follows:

Table 2: Number of private radio stations in Romania 1993–2006.

	1993	1996	1999	2002	2006
Radio stations	4	136	199	277	443

Source: National Institute of Statistics 2006.

The number of broadcast hours per one year grew from 96,033 in 1999 to 118,619 for the public radio and from 1,497,000 in 1999 to 1,585,875 in 2002 for the private stations (no data after 2002).

Public television, which in 1989 broadcast only 1,795 hours, gradually reached 8,541 hours in 1990, 9,997 hours in 1993, 13,095 hours in 1996, 14,197 hours in 1999, 25,111 hours in 2002 and 35,040 in 2005; it broadcasts on three national channels (the second covering only 60 per cent of the country and the third only 38 per cent), set up an international channel in 1997, and has around 2,700 employees. The number of commercial stations is growing rapidly:

Table 3: Number of commercial stations in Romania 1993–2006.

	1993	1996	1999	2002	2006
Commercial stations	2	53	88	106	158

Source: National Institute of Statistics 2006.

Only a few control the market: PRO-TV, Antena 1, and Prima (they broadcast both by ground and satellite relay and can be received directly with satellite dishes or through cable distributors). In 1999, public television channels broadcast a total of 14,197 hours, while private stations broadcast 512,247; three years later, in 2002 public television broadcast 25,111 hours and private stations 123,020 hours.

The development and growth of cable explains, to a large extent, the growth of commercial television stations in Romania because the small subscription costs have permitted large numbers of people to have access to the programmes offered by indigenous television. At the end of 2004, there were 653 licensed cable distributors. United PanEuropean Communication (UPC), which is part of American Liberty Global, dominated the cable television market with 37.5 per cent of all cable subscribers. Romanian Cable System (RCS) has 29.3 per cent of Romanian subscribers and the rest are divided among the small cable operators (*Ziarul Financiar* 2005).

Economical framework

Post-Communism brought a spontaneous privatization of the communist mass media and a rapid creation of new media enterprises. Control over almost all of the former communist print media – including the ownership of publication titles, facilities and equipment, and staffs – was quickly transferred from the state to private media companies, including domestic or international business groups, professional journalist associations, individual investors, banks and other entities. New print media enterprises were also created. Small local and regional private radio stations also sprouted up all over Romania in the immediate aftermath of communism's demise, operating illegally because the legal mechanisms for licensing them were not yet established. The state maintained its monopoly in the television field until the late 1990s when private, commercial television was, finally, given legal blessings (Coman 2003; Gross 1996). The income of the public radio station, for example, grew from \$48.6 million in 1999 to \$68.5 million in 2003, and its expenses in the same period went from \$46.6 million to 67 million. Its 2003 financial report shows that \$49 million came from advertising and \$46.6 from the radio tax (*Capital* 2004a). Public television's financial pot grew from \$60 million in 1999 to \$112 million in 2003, at least \$82.9 million of which came from the subscription tax and \$9.2 million from advertising (*Capital* 2004b).

Arguably, the dominant media model in Romania is a liberal one. Since 1991, some have argued that the media system is closer to a 'libertarian' than to a liberal one, partly because of some aspects which violate the principles of a market economy: these include a lack of regulations; the race to make profits; political advocacy as the primary role and function; and the renunciation of the elementary responsibilities of the press as these are understood in the West (Gross 1996; O'Neil 1997). On the other hand, it is also argued that the complexity of the social and political transformations, and the manifold possibilities of establishing new media enterprises, resulted in no single media model becoming dominant. Instead, several models were concurrently operative (Aumente et al. 1999: 197; Coman 2003).

The Law on Competition (1996) attempted to regulate the commercial media and the tendencies toward monopolization by creating the Council on Competitiveness, which was to authorize media mergers and acquisitions. Ownership of media outlets is, however, often hidden. The pressure exerted by the Council on Competitiveness for full disclosure of ownership brought some results; Sorin Ovidiu Vantu, for example, one of the most controversial businessmen in Romania, came forward in February 2006 and admitted to being the owner of Realitatea TV, a news TV station that he controlled from behind several 'front-men'. Phantom companies or organizations in Cyprus or other countries are sometimes set up as media owners. Manuela Preoteasa (2004: 405) stated that:

as a rule, Romanian legislation forbids anonymous ownership; every [media] company is obliged to register [the name of the owner] in the Trade Register Office and to communicate changes [in ownership]. In practice, few companies meet this obligation because there are no sanctions in force.

Foreign capital was late in entering the Romanian media field, particularly when compared to Hungary, the Czech Republic and Poland, and was marginal at best when it finally arrived, being most visible in economic press (Ringier), women's press (Burda, Hachette, Ringier, Axel Springer and VNU-Hearst, which became Sanoma-Hearst), and the entertainment press (Gruner & Jahr, Playboy and Hustler). Ringier's history in Romania offers an excellent example of a strong development started after a discrete entrance in the Romanian market: in 1994, it launched the economic weekly *Capital* and its success subsequently led (five years later) to the purchase of the daily *Libertatea*, which was transformed from a newspaper for municipal information into a successful tabloid. Next, Ringier purchased the weekly *Lumea familiar* and the daily *Gazeta sporturilor*, which it sold in 2001 to the Intact group. In addition, it launched the monthlies *Unica* and *Bravo* and the weekly *TV Mania*; in 2003, it purchased the successful daily *Evenimentul zilei* and the sport daily *ProSport*, thus becoming one of the most important players in the Romanian press. According to one of its press releases, in 2004 Ringier earned €36 million, out of a total of €719 million profits in the Romanian press market (Ringier Romania 2007).

The main printed press groups are (by alphabetical order):

- Adevarul (Adevarul – daily, Adevarul economic – magazine).
- ARBO Media (23 local newspapers such as Renasterea Banateana, Crisana, Telegraful, Ziarul de Bacau, Obiectiv and so on, and 9 magazines – including Chip, AutoMotor, Disney, Tom si Jerry).
- Bluelink Comunicazioni/Fulcrum (Ziua, Gardianul – dailies, Avere, Ziua Turistica, Ziua TV – weeklies), plus Splendid Media Zece (Cotidianul, Bucharest Daily News – dailies; Academia Catavencu, Bucataria, Idei in Dialog, Ideal Marriage, Motor, Tabu – magazines).
- Burda (14 magazines – Auto catalog, Ioana, Gradina mea, Locuinta mea, Perfect and so on).
- Jurnalul (Jurnalul Național, Gazeta Sporturilor – national dailies; 'Jurnalul de...' – 2 local dailies; 5 local weeklies).
- MediaPro Group (Ziarul Financiar – national daily; Arădeanul, Bănăţeanul, Bihoreanul, Braşoveanul, Clujeanul, Hunedoreanul – local dailies; Acasa Magazin, Madame Figaro, Playboy, PRO TV Magazin, Interioare, Aventuri, Pro-Motor, Geo, Discovery, Cainele meu – magazines).
- Ringier (Libertatea, Evenimentul zilei, Pro-Sport – dailies; Capital, TV Mania, TV Satelit – weeklies; Unica, Bravo, Girl – monthlies).
- RPG (Romanian Publishing Group) – Avantaje, Elle, Viva, Estetica, 20 Ani, Look, Pop-Corn, Deco, Povestea mea, Olivia.
- Sanoma (VNU)-Hearst (Cosmopolitan, Easy PC, Mami, Beau Monde, National Geographic).
- WAZ (Romania Libera – daily; Magazin Internațional – weekly).

The main Romanian groups in television are:³

- Media PRO International (PRO TV, Acasa TV, MediaPro International, TV Sport, Pro Cinema, as well as 22 local stations; distributed by 416 cable operators; PRO TV reaches 88 per cent of urban households and 70 per cent of total households).
- Intact (Antena 1, Antena 3, Euphoria, as well as 15 local stations; it is distributed by 350 cable operators; reaches 85 per cent of urban households and 65 per cent of total households).
- SBS Broadcasting & UPC (Prima, cable network).
- Bluelink Comunicazioni (Realitatea TV, Money Channel).

As of now, the most important private groups of radios are:

- Europa FM (44 local stations, covers 85 per cent of the country).
- PRO FM (15 local stations, 10 affiliated stations).
- Kiss Radio (former Radio Contact, re-branded in 2003; 33 local stations, 23 affiliated stations).
- Radio Guerila (former Radio 21, rebranded in 2003: 17 local stations and 6 affiliates).
- Mix FM (35 stations in 17 towns).

Is media concentration an obstacle for press freedom?

This is not the place for a detailed exposition of the liberal theories which consider the association between freedom of speaking and financial independence of mass media institution as the core of democracy. Essentially, the main idea is that media support democracy by offering access to the public sphere and to the different 'voices' of the society. This means that the variety of media outlets ensures the variety of sources of information and opinions. In a classic text, Jürgen Habermas sustains that modernity brings a radical deformation of the public sphere, with the press integrally monopolizing the public sphere. Thus economical interest becomes the main source of mass media messages' production; the access to a greater and greater public (which has become a consumer), leads to distortion of the messages, adjustment of their content to meet the expectations and psychological level of those huge audiences, and thus a loss of the rational dimension which is typical to the public debates:

The Big Press is based on the participation changing, for commercial purposes, of the main social classes in public sphere: it offers to the people the simple access to the public sphere. But this enlarged sphere loses its public feature as soon as the available instruments of 'psychological accessibility' could be transformed into a very purpose: sustaining the consumption to that level determined by the market laws. (Habermas 1978: 177)

In these conditions, concentration is a threat to freedom of expression and democracy by the reduction of the number of voices and by the bias of voices. Or in J. Keane's terms, concentration narrows the freedom of the press because it triggers 'access limitations, monopoly and also the restriction of the options number' (2000: 81).

In the period of maximal development of the post-communist press, 'financial independence' did not seem to be an important topic for public debate. Nobody considered such issues as financing sources, production costs, tax payment, unverifiable circulation, and an underdeveloped advertising market to be important in comparison to the spectacular increase in the population's purchasing enthusiasm. After that initial momentum, when the public interest in the press offer diminished, the economical problems became more visible and were transformed into major topics of public debates. Now, the issue of the freedom of the press clears itself and is framed as the subject of press economical liberty (or, from another point of view, the issue of political influence starts to be treated as the issue of political influence by economical control). Two major processes dominate this period: (1) the growth and development of the mass media market; (2) the fight for economical control of mass media trusts.

(1) *The media market*

During the last few years we have witnessed a paradoxical phenomenon: an increase of the investments in advertising parallel with a decrease in the audience of the major radio and TV stations, as well as of the most important weekly and monthly journals. According to Alfa Cont Mediawatch, advertising expenditure rose from \$26.6 million in 1993 to \$105.4 million in 1996, \$287 million in 1999, \$1,064 million in 2002, €1,299 million in 2003, €1,499 in 2004, to €2,827 in 2005. In 2006, advertising revenues were estimated to have increased by 40 per cent (Campaign 2007). The distribution of advertising revenues by medium is as follows:

Table 4: Media spending development – rate card.

1995–2001 <i>m USD</i> ; 2001–5 <i>m EURO</i>	TV	Radio	Print	Cinema	Outdoor	Total
1995	24.5	3	5	0.1	2.5	35.1
1996	57.6	4.8	13	0.3	5.6	81.3
1997	73.5	5.5	26	0.5	11.3	116.8
1998	132.2	7	44	1.3	15	199.5
1999	192.8	8.8	63.4	1	19	285
2000	326.3	12.1	105.8	1	30	475.2
2001	481.3	18.8	113.2	1	23.9	638.2
2002	1,044	25	145	1	18.9	1,214
2003	1,299	29	165	No data	No data	1,492
2004	1,799	43	255	No data	No data	2,067
2005	2,554	55	272	No data	No data	2,827

It is obvious that television is the major beneficiary of this advertising expenditure and receives a much greater portion of advertising money than its counterparts in Western European countries. In 1999, television received 61 per cent of the advertising expenditure, compared to the printed press which received 23 per cent, radio 5 per cent, movie theatres 1 per cent,

and outdoor advertising 10 per cent. These disparities continued to grow. According to Alfa Cont Mediawatch, in 2000 television received 73 per cent of total advertising expenditure, daily newspapers 16 per cent, magazines 8 per cent and radio 3 per cent. By 2004, television garnered 87 per cent of advertising expenditure, the print media 11 per cent and radio held steady at 3 per cent.

The interest of advertisers in television, the medium that reaches over 80 per cent of the public, explains the low level of investments in the other media and their dependence on revenues from sources other than advertising. In this context, one can understand the print media's desperate search for revenues; and that in 2001–4 the advertising expenditure of the Nastase government amounted to €64.7 million of public money (Hotnews 2005). In 2003, among public institutions, Petrom spent \$1.5 million on advertising, The National Authority for Privatization \$926,000, the Government \$922,000, Posta Romana \$858,000 and Romtelecom \$802,000. The amounts spent on advertising by public institutions such as Petrom, Posta Romana, Romtelecom, and the National Authority for Privatization, represented almost 50 per cent of the total advertising expenditure in the printed press. Alfa Cont Mediawatch's research (*Capital* 2004c) shows that in the first six months of 2004 public institutions spent 4.7 million Euros, 1.8 million of which went to seventeen national dailies. The biggest beneficiaries were *Adevarul* (479,000), *Ziua* (360,000), *Jurnalul National* (310,000), *Curentul* (115,500), and *Gardianul* (75,000).

(2) *The mass media control*

Following a pattern evidenced in other Eastern European post-communist nations, by the turn of the century an increasing number of local political and business leaders entered the press world, joining those who already owned or controlled the national and local media. The former mayor of Bacau, Dumitru Sechelariu, who was also a local businessman, purchased the local 12,000-circulation daily *Desteptarea* and the local Radio Alpha and Alpha TV stations. Other examples abound: in the Oltenia region, the media group Media Sud-Est, led by Constantin Paunescu, owns the 30,000-circulation *Gazeta de Sud* and the station Radio Sud; in Brasov, the president of the County Council, ex-Democratic Party Senator Aristotel Cancescu, is the owner of the powerful radio and TV network Mix-FM (taken over by SBS Broadcasting Media in 2007); controversial businessman and Constanta Mayor, Radu Mazare, controls the daily *Telegraf* and Soti-TV; the mayor of the fifth Sector in Bucharest, Marin Vanghelie, purchased the daily *Monitorul de Bucuresti* in 2002. The mayor of Piatra Neamt, Gheorghe Stefan, is the owner of Radio Unu and Unu TV; parliamentarians also control media enterprises, for example, Victor Ponta controls Radio 21, Verestoy Attila, local print media in Harghita, and Gyorgy Frunda, Radio Gaga. In 2004, Liviu Luca, the leader of the syndicates from Petrom who owns Petrom Service, took ownership of the dailies *Ziua* and *Gardianul*, of *Realitatea* TV and Radio Total; in 2005, he sold his media holdings to the controversial businessman Sorin Ovidiu Vantu. Politicians owning media outlets raise a question regarding the independence of the press: What is the possibility of an independent editorial policy when the press is controlled or influenced by individuals with political interests and aspirations? However, the political people who have invested in mass media were not able to receive representative positions. With one exception, the big mass media groups are controlled by Romanian or foreign businessmen.

Adrian Sârbu controls PubliMedia (journals, magazines, press agency), Pro Cinema and, with Central Media Entreprises, Media Pro International (with radio and TV divisions). Sorin Ovidiu Vântu recently created a media empire, which includes radio and TV stations, one press agency, and journals and magazines. At the same time, Dinu Patriciu (owner of Rompetrol group) is beginning to construct a similar trust, including dailies and magazines. Dan Voiculescu, who controls televisions and radio stations and publications press through the Intact group, is involved in both economic and political life (he is the leader of the conservative party and member of Parliament). His media group has developed slowly since 1995 (unlike the rapid acquisition made by Vântu and Dinu Patriciu). Officially, he isn't involved in media activities any more because he has yielded the management of the group to his daughter. Besides these moguls, the media market is owned by groups such as Ringier (Switzerland), WAZ (Germany), Lagardère (France). Essentially speaking, the landscape of media institutions in Romania is controlled by what the journalist Iulian Comănescu calls the five 'Big's' (Ringier, Voiculescu, Sarbu, Vântu and Patriciu for printed press; and public radio and television, Sarbu, SBS, Voiculescu, Vântu for audio-visual). Comparing the concentration degree in 2006 with the situation in 2004, he writes: 'The number of the national newspapers whose owners are others than the 5 "Big's" decreased from 8 to 3. The situation is similar in other markets, such as TV niches or economical publications' (Comănescu 2007: 21). Even if Comănescu exaggerates the idea of concentration including public service institutions together with private ones, Comănescu's figures in the following table illustrate a definite trend:

Table 5: Audience market share of the five big media companies in Romania.

Market shares in	Ringier	Voiculescu	Sarbu	Vantu	Patriciu	SBS	Public service	Others
National printed press	54%	20%	6%	4%	6%	-	-	10%
National commercial television	-	5.1%	26%	3.7%	-	4.7%	22.1%	28.4%
National commercial radio	-	1.6%	7.1%	-	-	14.8%	36.9%	39.5%

Source: Comănescu 2007: 21.

This evolution clearly shows not only that we are in the middle of a slow, but irreversible process of trust formation, but also that the major actors on the stage of the press have acquired power and stability: Consequently, they do not depend on the political sector, but they negotiate their position from the same level as the political actors. Such a position of power is not damaging to the freedom of the press because economic consolidation make them less dependent on political interest. Thus the annual actions of monitoring the press that take place within the programme 'The Freedom of Expression - FreeEx' (an USA based foundation) show a significant change between the moments of economical weakness of the press and those of

trust formation and acquiring an economical stability. With reference to 2003, the Report shows that the monitoring of the news programmes belonging to four TV stations (27 June 2003 – 6 July 2003) resulted as follows:

[T]he representatives of the governing party benefited of 71% of TV showing 'while' according to the data published by the Ministry of Finance at 1st October 2003 the most important private TV stations in Romania had debts of about 20 million dollars to the national budget. (Programul FreeEx 2003, 2005: 8–9).

On the other hand, referring to 2005, the Report shows that the political pressure diminished and 'there appeared critical news on the political power in the news bulletins broadcasted by the TV stations' (Programul FreeEx 2003, 2005: 4). Even if the beginning of transformation into trusts and the economical consolidation are not exclusive factors in this process of change, we cannot fail to notice this significant correlation, which is also confirmed by the history of the press in the capitalist countries and the evolution of other post-communist countries. Undoubtedly, the problem of the freedom of expression is not entirely solved, because the weakening of the political pressure is compensated by the increasing role of the economic pressures. But this is another story ...!

Freedom of expression as an alibi for non-professionalism

It is a frequent practice of journalists to use the freedom of expression in order to legitimate different journalistic initiatives, or to defend themselves against the accusations of the representatives of power, or to justify different acts considered to be almost illegal or unethical. But in the Romanian post-communist press, freedom of expression was also used to mask utter mistakes or to hide immoral interests. In order to support my previous point, I am going to take two examples into consideration: (1) the so-called 'scandals' of *Evenimentul Zilei*, *România Liberă* and *Adevărul* in 2004 and (2) the case of corruption at 'Gazeta de Cluj'.

The three 'scandals'⁴

At the beginning of September 2004, a group of 40 journalists at *Evenimentul Zilei* published a protest, disseminated in all national newspapers, claiming that 'under the guise of organizational changes, interference with editorial policy grew, ...endangering the independence' (Hotnews 2005) of the newspaper. In his answer to the protest letter, Thomas Landolt, Ringier representative in Romania (Ringier is the owner of *Evenimentul Zilei*) denied involvement in editorial policy and reaffirmed the intent of transforming *Evenimentul Zilei* into a newspaper 'of record'. He claimed that the corporate owner wanted simply to improve the management of the newspaper, to raise the responsibility of the journalists, to improve the look of the newspaper, and the improvement of the work flow (Hotnews 2005). The reactions of one journalist, Andreea Pora, were significant in articulating the notion that journalists also have to have a stake in the newspaper management. She told Radio Free Europe that the organizational structure of the newspaper was changed without consultation with the journalists (Hotnews 2005). In an interview on BBC (Hotnews 2005) another striker, Dan Turturica explained, 'I think that Ringier simply cannot tolerate having a newspaper whose leadership does not follow its orders' (Hotnews 2005). And the columnist Cristian Tudor Popescu, the director of the daily *Adevărul* wrote that:

We journalists lived for too long with the idea that the West is a better boier (the old landowners) that it will not step on our toes as was the custom of Romanian [press] magnates who purchase a newspaper or [get] a television [station] for personal use. See, however, that even the refined European owners do not shy away from [using] a fist or a boot in a newspaper. (*Adevarul* 2004)

On 13 September 2004, two announcements appeared on the front page of *Romania Libera*, a prestigious daily that was, however, steadily losing readers. In the first announcement, the editorial staff accused Klaus Overbeck, the representative of the German media conglomerate WAZ, of interfering with the editorial policy of the newspaper. In the second press release, the journalists' union at *Romania libera* announced that it had asked the police in Essen, Germany, the headquarters of WAZ, for a permit to demonstrate in front of WAZ. The director of *Romania libera*, Bacanu, declared that WAZ proposed quadrupling the price of the daily from 5,000 lei to 20,000 lei and that they suggested changing the nature of the articles published to make the newspaper more entertaining and relaxing for readers. In their statement, the journalists claimed that WAZ reproached them for publishing too many articles that were critical of the powers-that-be. They insinuated that the representative of WAZ in Bucharest, Klaus Overbeck, 'from the beginning [wished] to distance the paper from the political arena, suggesting that large, positive pictures be published and that as many fashionable items be introduced in the pages of the paper as possible' (*Romania Libera* 2004). The meeting between Bacanu and Bodo Hombach, the representative of WAZ in Bucharest, took place in May 2004 and, according to journalists loyal to Bacanu, the owners:

began to demand that we renounce publishing thematic supplements, that we increase the number of pages dedicated to advertisements, to find positive subjects we could investigate, and that we accentuate lifestyle articles; Saturday, for example, he wanted to offer eight pages covering celebrities, sports, and other entertainment oriented fare. (*Romania Libera* 2004)

In essence, from the perspective of the journalists, the motives for the conflict at *Romania Libera* were (1) injecting WAZ into the editorial activities, (2) modifying the editorial contents by reducing the space assigned to politics in favour of human interest items, or the translation of some articles from the foreign tabloids, and (3) pushing the paper into the tabloid genre. The pressures and changes evoked by journalists were never proved with specific evidence.

Klaus Overbeck addressed a letter to *Romania Libera's* staff that was published on 15 September 2004 on the front page under the rubric 'The Right to Reply'. Overbeck claimed that WAZ, in accordance with its own policy that it applies to all the newspapers it owns in Southeast Europe, did not interfere in the editorial policy. WAZ's basic argument was buttressed by the fact that, during its three year ownership of *Romania Libera*, the editorial staff had the freedom to publish any materials, including the protest signed by the editorial staff, which was published on the front page of the 13 September 2004 issue. The representative of the German company claimed that he had no desire to change the newspaper into a tabloid. The publication, he stated, should remain a newspaper of quality, which should offer relevant information to its readers. He was in full accord with the principles of a free press. Subsequently, in an interview

with *Jurnalul National* (2004), Overbeck stressed that the data from the National Audience Study (Studiului National de Audienta – SNA) demonstrated that *Romania Libera* had lost 32 per cent of its readers between October 2002 and July 2004. Overbeck stated that he ‘did not come to Romania to change the [editorial] line of the newspaper or to impose German standards but to place a daily newspaper on the market that can be competitive’. At the same time, he attempted to prove that Bacanu had great personal interest in the scandal because he had a salary of hundreds of millions of lei and income from commissions paid by companies associated with *Romania Libera*. In other words, Overbeck suggested that he had no connection with Romania’s political world and that the attacks directed at WAZ were also attacks against all foreign owners of media in the country, and furthermore, that it was a conspiracy of sorts hatched before the elections in November 2004.

The leadership of *Adevarul* – Cristian Tudor Popescu, Adrian Ursu, Lelia Munteanu, Bogdan Chireac – resigned at the end of the newspaper’s Administrative Council meeting on 20 March 2005. The reason for the resignation was that the majority owner, Ana Maria Tinu, together with the members of the Administrative Council, decided that it was not appropriate that those responsible for the editorial policy of the newspapers also be responsible for its economic policies. Thus they wanted to replace Popescu, Ursu, Munteanu and Chireac in the Administrative Council but leave them on the Editorial Board. The four resigned from both and maintained that they were leaving *Adevarul*, because:

there is no justification for replacing us...It is natural that we have a say in the Administrative Council. We have done our duty on the Council to the very end and were replaced and we no longer feel secure. We cannot guarantee the quality of the newspaper. (Cotidinel 2005)

Commenting on the situation, Mircea Toma, the director of the weekly *Academia Catavencu*, observed that the matter concerned a ‘profit (of 22 million Euros in 2004) [that] was pretty well [lessened] because of the salaries of the “barons” and by their personal publicity agencies, which melted away a good deal of the newspaper’s share holder profits’ (*Academia Catavencu* 2005). Toma also claimed that at a time when shareholders who were also in the Administrative Council of the newspaper received insignificant amounts of money, Popescu had a monthly income of 10,000 Euros. This is the background for the decision by the owner of *Adevarul*, who inherited his shares in the newspaper, to change things at *Adevarul*: that is, to separate the business from the editorial and to identify strategies to make the newspaper financially competitive and profitable.

On the other hand, commenting on the decision to separate the commercial from the editorial leadership, Andrei Postelnicu, a journalist at the *Financial Times*, wrote in an issue of *Evenimentul Zilei* (2005):

The fact that this was not yet taken puts into question the editorial integrity of *Adevarul* from its very beginning. The wide-spread practice of encouraging journalists to conclude contracts for advertising, earning a commission and supplementing their salaries, discredits the reputation of the newspaper and of those who are leading it (it must be noted that this strategy is applied at other newspapers, including *Romania Libera*, a fact confirmed in one of Bacanu’s declarations on *Realitatea TV*).

Corruption and blackmail

In October 2006 the Prosecutor's Office finalised the indictment against a group of journalists from the trust 'Gazeta' that held ten journals and magazines in different towns in Transylvania (the central unit being *Gazeta de Cluj*). Seven leading journalists were charged, accused of qualified blackmail and being part of a criminal organization. The indictment showed that, starting in 2004, these journalists had begun to gather information about different businessmen, and then, by threatening them with publishing disreputable information, the journalists signed numerous advertising contracts (using blackmail). In many cases, instead of these contracts (from which the journalists took substantial favours) sums of money were also obtained for personal use:

According to the evidences the culprits, the accused and the other members of the group took advantage of being journalists for blackmailing both private and public persons by using press information in a tendentious and malicious way; by doing so their activity lacked the purpose of informing the public correctly and thus they broke the provisions in art. 10 para. 1 and 2 from The European Convention of The Human Rights of which Romania is a part as well. (Hotnews 2007)

At the moment these accusations were uttered, the leaders from the newspaper *Gazeta de Cluj* published a press release in which they stated that the prosecutors' accusations were violating the freedom of expression:

In Romania hunting journalists has become a national sport. In today's Romania attacking journalists and looking for their relatives so that one hurts journalists through them, has become part of some agreements up to a level much more than high. Today, our friends, fellows for over 15 years in a battle long before lost against the political-economical crap, were kept in Cluj in a very disdainful and revanchistic manner...We know for sure that a clear and fair examination of our colleagues, who for years are fighting alone against the flaws of Romanian society, will prove that everything reduces to some people that afford buying human and material resources of the state just for their personal revenge. (Hotnews 2006)

This was the sole document that explained the case of the journalists from *Gazeta de Cluj*. In December 2006, three more journalists were charged; the trial started in January 2007. Beside the accusatory statements of businessmen, politicians and members of the local administration, the press showed that two of the accused admitted during the hearings that these practices were means of the company for acquiring its own or other personal financial interests. The professional association did not support the journalists and took distance:

The Romanian Press Club considers that the searches, hearings and detains carried out by the legal authorities in Cluj upon the editorial staff of 'Buna ziua, Ardeal!' and 'The Cluj Gazette' do not represent attacks against the freedom of the press. The accused journalists must answer legally to the multiple accusations of blackmail. (See Ghinea and Fotiade 2007)

And The MediaSind union:

The arrest of the journalists...casts blame on being a journalist in Romania. It is obvious that the journalists in Cluj must give an answer before the law for what they did like any other citizen as the judicial resort is the only one capable of deciding whether the law was broken. Even if they are not members of our union, as it is about involving other journalists as well, US MediaSind will monitor this case attentively. But what is particularly serious is that some employers offer the permit of being a journalist to any person who has or not any connection to the press, without following the minimal provisions for this, and by doing so their actions lead to compromising the profession of a journalist... (See Ghinea and Fotiade 2007)

While commenting upon the way this case was presented in Romanian media, the authors of the report on media corruption remarked, not without some irony:

Still, the journalistic guild did not look too surprised by the possibility that the accusations may be true. The event seems to have appeared against the background of some scepticism among the journalists: they knew that blackmail by press was taking place in Romania. The real surprise seems to be that the Prosecutor's Office took a position in this case. (Ghinea and Fotiade 2006: 38)

Indeed, blackmailing by press has had a long history in Romania, before, during and after the communist period (see Petcu 2007; Coman 2004). But, from the perspective of the present discussion, beyond the facts themselves, what is significant is the discourse of the accused who used the freedom of expression as a magic shield meant to intimidate the prosecution and exculpate the convicted journalists.

Notes

1. For more information of these issues see Coman 2003; Coman and Gross 2006.
2. For more information see Press Freedom Reports on Media Monitoring Agency (2007).
3. See also CNA 2007.
4. This a short version of my analysis in Coman and Gross 2006.

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