

FROM CENSORSHIP TO SELF-CENSORSHIP IN THE PROTECTION OF INFORMATION

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Abstract

Censorship represents an imposed or self-imposed restriction on the expression of human thinking dating back to ancient times. When thinking about the individual, this obstacle refers to the preservation of self-security and the maintenance of an ascendant on the previous speaker. However, this obstacle gains some dimensions with an oppressive character, leading to the physical annihilation of the individual when this phenomenon is in the power of some religious, political or economic organisations (all with a totalitarian structure) and to the noticing of some aspects that could represent an assault or a disclosure, including the allusive ideation, referring to some disturbing truths for that particular power (organisation). Things which might represent the object of some sensitive and necessary to protect information, gain an objective framework, legal under the law. This is the place in which things are normalized in accordance with the human rights, and access to public information is allowed only on objective grounds. This phenomenon is equally interesting both for the people working in the field of communication and public relations and for journalists.

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It seems that censorship was invented at the same time with communication!

The act of communication was perceived by the individual as being extremely important. Communication, through the way in which it is performed, could protect the individual from unwanted reaction or it could even harm him because he "outrun" the necessary communication framework. In such a place one could notice the need for limitation or self-limitation in communication. A self-limitation aimed to allow the "reserve" on a content which, through disclosure, would leave it to the liking of the one he communicates with. Therefore, here we might speak about a kind of self-censorship, limiting the access to information, meant to ensure the individual an ascendancy over the one he

communicates with. We cannot go further without noticing the significance of the word, the one that defines and identifies information.

This kind of an approach allows to go beyond the existing dictionary defining framework for censorship. As a matter of fact, censorship was practiced in various fields, from the religious to the economic or political one and it represents a limitation of the right to expression and free thinking.

Is there "a need" for censorship"?

From the perspective of an unallowed "attack" of the intruder when it comes to the information a person or a social entity possesses there was the unwanted risk to some prejudices. Sometimes these can be existential. We are in an area where torture used to be practiced in order to obtain information and the people who accessed information without any right were punished or even killed. Censorship is not a joke!

The role of censorship is close control over the transmission of information and ideas and the repression of the ones who could jeopardize the power. Power is the one that, once in force issues the norms related to the field. In proving this aspect, the power continues to support the idea that the main purpose of governing is to maintain order (POPESCU, 2005).

Censorship is defined as "the prior control which ensures the secrecy of the state; the prior control exerted on the content of publications, radio and TV shows etc.; an organ which exerts this control." (DEX, 1975) Censorship was practiced in the totalitarianism prior to 1990, but historically speaking its roots go much before this. We can offer as examples the royal urge which forbids the import of catechism and Calvin books (1560-1580), Vasile Lupu's Code of Laws

1646 (in Moldova) and Matei Basarab's Code of Laws, 1652 (in Wallachia) (PETCU, 1999). Regulations of the field go even further to the 1862 Law of the Press or even to *The inside censorship*, published in The Official Bulletin no.1 from 1883. (PETCU, 1999)

Censorship cohabits with propaganda, misinforming, manipulation or even advertising. It can be explicit, normal or the result of some processes and procedures used to dilute the rights of the citizens.

The randomness of imposing censorship is based on the monopoly of power, the result always indicating a category of privileged people, including the privileged from the press. Here we can include the press accreditation or its denial, preventing access to the event site, informational/media/subject embargo etc.

Censorship represents a way of limiting or even forbidding the right to access information and an attack on the freedom of expression.

Frameworks and types of censorship

History presents us with some main approaches regarding censorship. One refers to the religious framework, the one which saw a danger of the attack on its own perceptions in case of the dissemination of harmful information. There was even an imposition according to age. For example, the imposing of Judaism, at a certain moment, of the age limit of 25 for those who wanted to study philosophy (CARMILLY - WEINBERGER, 2003). This framework is also met in other religions where various limitations, segregations, interdictions (especially those of reading various works, of viewing various films, pictures, etc.) used to be imposed.

Another approach refers to political interdictions and limitations. The prohibition of some information has a major purpose behind it. It especially deals with the way in which power was gained, its conservation and the projection in time and space especially in the case of the totalitarian states.

Military censorship is an important one and it takes on specific forms related to the preservation of the secret regarding military operations, defence resources and also regarding the dedicated information or those which, at a certain time, could be of interest for the military power instrument (RUSU, 2012).

The framework is not a limitative one. Various fields, among which diplomacy plays a major role, represent specific manifestation habitats. Here is also mentioned the fact that the censorship habitat often takes the form agreed with various international partners. These partners can be states, alliances, cooperation frameworks etc. The field is mentioned as "the protection of information not meant to be advertised, broadcasted to Romania by other states or by the international organisations, ..." (ROMANIAN PARLIAMENT, 2012).

The positive and negative censorship represent a difficult classification to build and which has always led to discussions, controversies and warlike attitudes on behalf of the citizens and also of the media.

Suffice it to say, for example, that the broadcasting of pornography in the media leads to polarized attitudes and triggers a censorship with positive consequences.

From political censorship to information protection politics

It is easy to notice that the shift from a democratic system to the rule of law also leads to "the disappearance" of censorship. This fact is included in art. 30, alignment 2 from the Romanian Constitution ("Any kind of censorship is forbidden"). The word disappearance is included in inverted commas because we refer more to a theoretical framework, but basically there is this continuous struggle between those who want to know everything and those who want to limit the access to information. This is presented in the immediate next article of the same normative act which stipulates that "the right to information must not prejudice the youngsters' protection measurements or the national security." (THE ROMANIAN CONSTITUTION, n.d.) This is why the legislator promoted a series of specific normative acts meant to fulfil the politics of the field.

Here, there is also a package of acts meant to facilitate the necessary operations in order to limit access according to the classification and this can stop the press from accessing that information.

Beyond these regulations there are also some which refer to events with an ill-timed character (the state of siege, the state of emergency, the

emergency crisis etc.). This is the proper place for temporary censorship. Although during the specific normative act, the Ordinance no. 1/1999 updated, the syntagma censorship is not mentioned, we can understand that this seems to be the purpose of regulations. In this regard, two provisions with important attributions of the military authorities created by the mentioned normative act seem to lead:

“to protect military information aimed at communicating through the media the information related to the state of siege or emergency, with the exception of those referring to disasters, **they are to be offered to the media only with the approval of the military authorities**; the mass communication means, regardless of their nature and propriety form, are obliged to transmit the messages of the military authorities, on their request;” (ROMANIAN GOVERNMENT, 1999) and “**to temporary suspend the appearance or the broadcasting of some publications or of some radio or TV shows.**” (ROMANIAN GOVERNMENT, 1999)

We speak about some temporary attributions (ROMANIAN GOVERNMENT, 1999) which are applicable for 60 days in case of siege and respectively for 30 days in case of emergency. They can be removed within 5 days in case the Parliament does not approve the established state. (ROMANIAN GOVERNMENT, 1999) At the same time, some extensions might exist according to the law.

During the states imposed according to the given normative act, the specific activities related to communication and public relations as well as those specific to journalism may continue according to the usual legal framework. It is basically in the interest of the authorities, also generated by the need to inform the public about the measures imposed through mass-media. Things take a specific turn only when some military orders are issued, which explicitly stipulate the limitations targeting the media.

Objectivity and subjectivity in the protection of information; the difference of purpose

In principle, the classification is based on and assessment of the information followed by the passing through a filter through which one can notice which are the prejudices brought to “the

social standardiser in question” (political, military, diplomatic, religious etc.) if that piece of news/material/description reached the public. In the older censorship frameworks this was completely the decision of the decision maker. Here we can include Carmilly-Weinberger’s aphoristic observation: “Neither the secular nor the religious power could not understand or take into account the fact that imposing such coercive measures proved their own vulnerability.” (CARMILLY – WEINBERGER, 2003)

In the Rule of Law censorship is eliminated through a legal framework. In order to protect specific information a dedicated normative framework was established, which tried to “reconcile” the principle of the citizen’s access to public information with that of the need to protect certain “sensitive” information which, through an uncontrolled dissemination, could bring major prejudices to the state, institutions or to various citizens.

The journalist’s wish to know the information and to bring it to the attention of the public is hit, in this place, by the inability to penetrate the legally imposed “clothes of invisibility.” Not far from this place is the position of the communicator from the public relations structure, the one who, during communication, can overcome this deadlock.

The possible “slide-slips” of those who deal with the management of specific classified information are based only on the law provision which forbids the classification of information in order to keep them far away from the eyes of the press: “It is forbidden to classify as state secrets the information, data or documents with the purpose of hiding the violations of the law, the administrative errors, the illegal restraint of some peoples’ rights or the harming of some legitimate interest.” (ROMANIAN PARLIAMENT, 2012)

At the same time, “it is forbidden to classify as work secrets the information which, according to their nature or content, are aimed at informing the citizens regarding some issues of public or personal interest, in order to favour or hide the circumvention of the law or the obstruction of justice.” (ROMANIAN PARLIAMENT, 2012)

The following statement comes in support of approaching the public to the trustfulness of awarding/rejecting access to classified

information: "Any Romanian individual or legal person can dispute the classification of certain information at the authorities who have classified it, the lengths for which it has been classified and the way in which one level of secrecy or the other was attributed. The appeal will be settled according to the law of the administrative litigation." (ROMANIAN PARLIAMENT, 2012)

In order to facilitate access to some events and places which require the contact with some classified information, the forms and formulas of press accreditation take place, a place in which institutions generate their own regulations. Although they are usually based on the normative framework, they also lead to discussions or controversies with the "more uncomfortable" journalists.

Anyway, in recent years, the legislation was improved. The updated Law 544 contains some ideas meant to bring the access to information closer to the truth and to reduce the subjectivity degree of the information holder. Therefore, article 12 states that: "a) information from the field of national defence, safety and public order **if they belong to the category of classified information, according to the law**"; b) information regarding the consultation of the authorities, as well as those that refer to the political and economic interests of Romania, **if they are part of the category of classified information, according to the law**; c) information regarding commercial and financial activities, **if their publicity undermines the right to intellectual or industrial property as well as the principle of loyal competition, according to the law**;"

Moreover, the provisions from Law 182, state that: "the information which favour or hide the breaking of the law by an authority or public institution cannot be included in the category of classified information of public interest." (ROMANIAN PARLIAMENT, 2001) Here is a gate open to the access of the media for the information of the public.

Therefore, the main places which describe the failure to grant access to public information are those presented by Law no. 182/2002 (the national classification and/or of the cooperation frameworks), as well as those stipulated by art. 12 from Law no. 544/2001.

Beyond this rate setting of the access to public information it is to be expected that during exceptional situations (war, siege, emergency) other problems might occur related to the activity of the media, as well as that of the communication and public relations structures. They mainly refer to the decreed framework and the functioning of the social in such conditions, and, in terms of form, to the requirements imposed by the military authorities authorized to apply the decree of establishment

We notice that the approach censorship/self-censorship suggested in the title indicates, to different measures, institutions, norms and the personal involvement of those who are responsible for guaranteeing the protection of information. This analysis gains a more objective dimension in democratic societies. It is meant to protect the social, including against the excesses that might appear and which could mean the unjustified limitation of the individual's right to information. Even so, the elimination of subjectivity cannot be achieved. We take into account, to the same extent, the classification on various levels of the information, the existence of some places in which access rules are established on the basis of a convention with the external partners, a fact which is not included in the internal setting framework, the possibility of awarding press accreditations etc.

Beyond these aspects we consider that subjectivism is also due to "an entitlement beyond the law" for some people authorized to classify information according to the legislation in the field for: ("a) for strictly secret information of extreme significance: 1. The President of Romania; 2. The president of the Senate and the president of the Chamber of Deputies; 3. The members of the Supreme Country Defence Council; 4. The prime minister; 5. The members of the Government and the General secretary of the Government; 6. The governor of the National Bank of Romania; 7. The directors of the national information services; 8. The director of the Security and Protection Service; 9. The director of the Special Telecommunication Services; 10. The general secretary of the Senate and the general secretary of the Chamber of Deputies; 11. The president of the National Institute of Statistics; 12. The director of the National

Administration of State Reserves; 13. other authorities empowered by the President of Romania or by the Prime Minister; b) for the strictly secret information – the empowered presented at letter a) as well as the officials with the rank of Secretary of State, according to their material skills; c) for secret information – the empowered presented at letters a) and b), as well as superior officials with the rank of Under-secretary of State, general secretary or general manager, according to their material skills”) (ROMANIAN PARLIAMENT, 2012). This enumeration of the people allowed to classify information reveals to us public institutions and organs which work on the basis of the resources of the tax payer. Therefore, classified information represents a segment of the public information aimed at being accessed only on the basis of the law and by upholding specific principles (the need to know etc.)

Some of these people (“a) The President of Romania; b) The Prime Minister; c) ministries; d) deputies; e) senators; f) judges; g) prosecutors; h) Assistant magistrates of the High Court of Cassation and Justice” (ROMANIAN PARLIAMENT, 2012)) are not included in the technical approach provided in Government Decision no.585/2002 for the approval of *The national standards for protecting classified information in Romania*, on the basis of which it is established, following the assessment of personal qualities, the access to classified information. This also

represents an aspect that could hinder the results of the media approaches towards the access to information as well as regarding the fairness of the classification etc.

References

- CARMILLY – WEINBERGER, M. (2003) *Censorship and freedom of expression in Jewish history* [in Romanian]. Hasefer Publishing House, București.
- DEX (1975) The explanatory dictionary of the Romanian language [in Romanian]. Academy of the Socialist Republic of Romania Press, București.
- PETCU, M. (1999) *Power and culture / A history of censorship* [in Romanian]. Polirom Publishing House.
- POPESCU, L.G. (2005) *Public policies*, Economic Publishing House, București.
- ROMANIAN GOVERNMENT (1999) Emergency ordinance, no. 1/1999, on the state of siege and emergency, art. 5, art. 13, art. 20, par. i), k). Available from: <https://lege5.ro/Gratuit/giztqnzv/ordonanta-de-urgenta-nr-1-1999-privind-regimul-starii-de-asediu-si-regimul-starii-de-urgenta> [22 October 2019].
- ROMANIAN PARLIAMENT (2001) Law no. 544/2001 (updated), art. 13. Available from: <http://legislatie.just.ro/Public/DetaliiDocument/31413> [22 October 2019].
- ROMANIAN PARLIAMENT (2012) Law no. 182/2002 (updated), on the protection of classified information, art. 7, par. 4, art. 19, art. 24, par. 5, 19, art. 25, par. (5). Available from: <http://legislatie.just.ro/Public/DetaliiDocument/35209> [22 October 2019].
- RUSU, G. (2012) *Synergy of management tools* [in Romanian], Paralela 45 Publishing House, Pitești.
- THE ROMANIAN CONSTITUTION (n.d.) art. 31, par. (3). Available from: <https://www.constitutiaronaniei.ro/art-31-dreptul-la-informatie/> [25 October 2019].