

STATE POLICIES AND LOCAL PRACTICES IN THE APPLICATION OF THE MEDIA STANDARDS FOR THE COUNCIL OF EUROPE

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Abstract

The role of the media in the Europeanization of the national public space is exercised not so much in terms of communicating political messages, but in the ability to reliably convey information about European lifestyles and behaviors. The media provides a framework for debating European issues: it sends messages, explains, interprets and facilitates the understanding of information. But the media should also generate that sense of belonging that every community needs to survive and thrive. It remains to discover to what extent the public is effectively concerned with political decisions taken at the level of the European institutions, and transfers to local politicians the task of acting on its behalf to express the country's political problems.

Keywords: media, audiovisual industry, local practices, resilience, media pluralism.

The present article analyses the issue of both State and media standards from the decision-making sphere of the Council of Europe, with application for the Romanian society which, at present, is confronted with an essential problem, namely: *the lack of a Law of the Press*, which should regulate and completely eliminate both the flaws of the judicial and of the normative framework of the mass-media field and free the media from the political interests that currently manifest.

Therefore, on May 18, 2021, the Council of Europe issued some important conclusions regarding the recovery and the transformation of the European media in certain fields of activity, such as the audiovisual and the news media sectors, which represent important economic actors¹. Statistics revealed the fact that the European media recorded an annual turnover of 193 billion Euro, according to the estimations of the European Commission. Therefore, according to Mrs. Graça Fonseca, the Portuguese Ministry of Culture, at the local and European level:² *"The*

role of the news media and of the audiovisual sector in offering precise information and entertainment is highly significant for the democratic debate and the cultural diversity of Europe. However, the media and the audiovisual sector are confronted with enormous challenges such as the changes of people's viewing habits and the loss of advertising incomes. The COVID-19 pandemic exerted some extra pressure on both sectors. The conclusions that we drew today establish some clear measurements in order to help them recover quickly and emerge even stronger from the crisis."

We could say that both the policies and local practices in the media field were blocked by the crisis generated by the COVID-19 pandemic. In this regard, the Council of Europe recommends all member states to value the opportunities offered by the *Recovery and Resilience Facility*, which represents EU's post-crisis financial instrument, and to invest in the acceleration of the digital transformation and in the green transition of the audiovisual sector and of the news media.

Within this Council of Europe meeting, the Ministries requested that efforts should be made *"in order to ensure that the audiovisual industry can more easily reach the European and international markets. In order to stimulate the circulation of the European content in Europe and at the international level, one should facilitate cooperation when it comes to production and distribution. Supporting cross-border collaboration between the actors on the audiovisual market is also essential."* Therefore, we consider that this initiative is commendable, its sole purpose being that of valuing media in the entire European space, in order to support the audiovisual and the news media sector.

We know present the most important local policies and practices, established by the Council of Europe³:

➤ **The freedom and pluralism of the media in the digital era;**

Mass-media plays an essential economic, social and cultural role generating jobs and essentially contributing to the spread of the European lifestyle, history, culture and values in the entire world. Every EU member state is currently confronted with threats, challenges and different opportunities. However, recent political developments place the EU in the forefront of the debates regarding the protection, support and promotion of pluralism and of the free media in Europe.

➤ **The creation of responsible and credible journalism**

We here state that the existence of a responsible and credible journalism is essential. Journalists have to verify the information they broadcast to the public; the freedom of press must not be conditioned by compromises, ambiguities or even information with a tendentious character. There is however a boundary: the delimitation between responsible journalism and the social bloggers / anonymous actors is no longer clearly defined, in which the role of editorial responsibility belongs to both and old and the new media. Educating media consumers starting from an early age plays an essential role. The freedom and pluralism of the media have to be protected by independently managing it (SURUGIU, 2013).

➤ **The creation of a single European market for media services**

At the moment, there are online/digital publications which refer to all subchapters of the editorial sector and there is a need to improve interoperability, portability and cross-border availability in order to facilitate their consumption in Europe. If these aspects are solved, the cross-border development of new enterprises can enrich the media service ecosystem and generate both economic growth and jobs.

Mass-media concentration: the promotion of higher transparency in regards to media property

Mass-media property has to be transparent and the national regulation authorities have to closely monitor this process, given its role in ensuring media pluralism. The role of media transparency on technological platforms is one which creates responsibilities for both parties: media trusts and public opinion. We therefore speak of a dangerous public opinion manipulation tool by publishing on the Internet, through comments, offensive and fictional information on topics that are particularly sensitive to the target audience, which can thus have a strong negative effect on a large number of people.

The public radio and television broadcasting service plays a major role in the EU Member States. The fulfilment of this public service mission targets the assurance of cultural and linguistic diversity, entertainment, educational programmes, the correct and objective information of the public, the guarantee of opinion pluralism in offering quality programmes, free to be rebroadcasted and the facilitation of the freedom of speech for the producers and their interlocutors, according to the legislation in force (JONES, 2004).

The future of the public-private dual radio and television broadcasting system in Europe depends on the reconciliation of the public service role with the principles of a fair competition and the existence of a free audiovisual market in the member states.

The field of the audiovisual policies and strategies targets, on the one hand, *the freedom of expression and the unhindered access to information of public interest*, including here the principle of the free circulation of services, from the four (the free circulation of people, services, capitals and goods) which lie at the basis of the Treaty on European Union and, on the other hand, the fact that *the audiovisual represents an inexhaustible source of information*.

The expression and information freedom of the press, without the interference of public authorities and without taking into account borders, guaranteed by article 10 of the Convention, represents an important pillar of democracy and, at the same time, one of its progress factors.

In reality however, in the political sphere of the Member States of the Council of Europe there

is a serious problem, namely the constitutional limitations of the states who do not manage to control illicit and criminal phenomenon from the online environment. The problems regarding limitation of exerting the fundamental rights and freedoms from this environment include, but are not limited to children's access to pornography, the content of racist or xenophobe sites, anonymous expression, insults and slander.

A different situation is represented by the mass-media issue of the EU member states from the South-East of Europe. Therefore, according to the media right specialist Johannes Weberling and the media expert Hendrik Sittig, "the EU has completely failed to ensure the freedom of the press"⁴

The two specialists were invited to *The Days of the Media Right in South-East Europe*, in Frankfurt, at a manifestation organised on December 1 and 2, at the European University Viadrina Frankfurt (Oder). They criticised the restriction of the freedom of the press, as a state policy and media standard. Therefore, in their opinion, "journalists and the media institutions from South-East Europe are under press because of the constant strategical complaints of oligarchs, attacks and the distribution of European money only to media institutions close to governments. For the quality journalism this is not at all easy. Simultaneously, the media market is profoundly changed by online platforms such as Facebook and YouTube."

Johannes Weberling harshly criticises the European Union, stating, unmistakably that: "The EU represents a total failure in ensuring and supporting the freedom of the press in South-East Europe! There are some fake critical discourses, such as the ones referring to the developments in Hungary. Basically, the EU contributes to the worsening of the press freedom situation because it allows national governments to distribute the European funds for the budget regarding the information system. It is as if the wolf guards the sheep. If this money was awarded on objective criteria, then it could support high-quality journalism. Even today I cannot understand why the European Union has not changed things in this field..."

As if he wanted to complete Weberling's idea, Hendrik Sittig, stated that: "... in many places it was thought that the democratic deficiencies will get solved by themselves following the adherence to the

European Union. This was not the case. In many countries we even noticed some backwards steps in democratic development and the assurance of the freedom of press. The basic structural problem is that in South-East Europe the media markets are very small. This is why connections between politics, business environment and media are sometimes extremely tight and this is highly disadvantageous for an independent media system... We here need the EU in its role as a community of values. I am glad that the current European Commission approaches deficiencies in a more direct manner when it comes to upholding democracy and the rule of law. The millions of Euros offered in recent years by Brussels to member states for information budgets and European enterprises represent the best example. Especially in South-East Europe, where advertising funds from the commercial sector are extremely limited, the community financial support mostly reached the media institutions close to the government. There is a need here for more strict controls and transparency..."

In this regard, a press release of the of the European Parliament mentions a resolution from November 11, 2020, which clearly stipulates that: "The Parliament draws attention on "the attempts of some EU member governments to put the critical and independent media to silence and to undermine the freedom and pluralism of the media." The EU deputies are extremely worried about the situation of the public media in some of the EU countries, where the means of mass communication turned into examples of progovernment propaganda." Deputies emphasize the fact that media freedom, pluralism, independence and journalists' safety represent essential elements of the right to the freedom of express and information and are vital the democratic functioning of the Union and of its member states. The resolution warns that "media freedom was attacked in recent years" and that the COVID-19 pandemic only made the situation worse (MARINESCU, 2009).

One should remember a speech by the PPE reporter Magdalenei Adamowicz:⁵ "We are now witnessing a rebound of democracy and the seizing of power through lies. There is no freedom without media independence, there is no democracy without media pluralism. The media should serve the truth, not lies. It should act in the service of electors, not of those elected and it should represent a means of control for the power. The media has to protect

democracy, but it can also kill it. This is the reason why it should be independent."

In support of these claims there is a bill that the EU adopts *in order to guarantee the independence of the press, in the context of the serious situation in Poland or Hungary.*

Therefore, the European Union shall adopt a legislative text which guarantees the independence of the media in all member states, stated the European Commissioner for the internal market, *Thierry Breton*, since the situation of the media becomes more and more problematic in countries such as Hungary, Poland or even the Czech Republic⁶: *"We are working on a Media Freedom Act. Its goal is to guarantee the independence of the media market and to increase its resistance... We want to act against any type of unjustifiable mixture in the activity of the media companies,"* stated the Commissioner at an event organised in Paris by France Televisions. *"We want to reflect on how to strengthen the governance of the public media."*

According to the Council of Europe, the authorities of the country led by the sovereigntist Prime Minister Viktor Orban systematically attack the defenders of human rights and investigation journalists. The memorandum notes that all this takes place *"with the purpose of sending a clear message: there will be repercussions against any attempt of criticising the government."* Moreover, Hungary ignores the decisions of the international court, which shows that the government does not have any intention of obeying the law, *"and essential precondition for the freedom of expression,"* insists Commissioner Mijatovic.⁷ In order to solve this situation, Dunja Mijatovic considers that Hungary must amend its legislation to divide the excessive powers of the President of the Media Authority between several local bodies (PETRE, 2009).

The relations between Viktor Orban and the European institutions have been altered for more than a decade. Hungary was several times criticised on the topic of the freedom of press, especially last month when the Hungarian authorities refused to renew the Klubradio licence, the most important independent radio station in Hungary, often critical to the government in Budapest.

Another aspect is represented by the media policy and standards in Romania. In recent years,

this subject was briefly approach on fields (advertising, access to personal information and data, the freedom of expression and defamation etc.) without any ample analysis of the faulty aspects which contribute to the stagnation of the media development within a democratic society.

In Romania, there are some media policies, but they are not very clear, the press being clientelically enslaved to both the ruling political power and to the opposition. Therefore, if we look at the realities of the Romanian contemporary media, we notice that there is only one judicial form which regulates the aspects referring to media and the field of the audiovisual and the that is the Law of the Audiovisual no. 504/2002 and Decision no. 220/2011 regarding the Regulation Code of the audiovisual content. And this is it ... the rest are just shy attempts of regulating the press according to political interests, starting with the year 2004.

At the moment, there are three policies regarding the media in Romania: written press (on the verge of extinction), audio-visual and digital press (World Wide Web, Blog, Feeds RSS, Podcast etc). All three are currently used for clientelistic-political purposes. For example, the paradigm of the Romanian media has negative effects throughout the entire economic, political and social landscape. Firstly, because it does not exert its role of the watchdog of democracy.

The journalist profession stands to lose from all this and we can even get to the de-professionalization of the guild. This leads to the development of corruption, since no media channel which was co-interested in suspicious conditions does no longer have any legitimacy in fighting against corruption. Since there is not real public opposition, politicians can use following practices without any problem: the use of public funds to finance the press, client employment, hidden or arranged contracts etc.

In order to be able to finance all the existent media institutions one makes use of thee budgets of public institutions, which offer generous amounts of money to promote mayors and heads of institutions more than the objectives and the projects of those particular institutions. In Romania, the media market pluralism represents the field with the highest degree of risk (76%) from the four analysed by the Media pluralism

monitorization instrument, alongside the elementary protection of the right to expression and information, political independence and social inclusion⁸. According to this survey, at the moment there are two major risks: *“the influence of the owner or the commercial influence on the editorial content and the concentration degree of online platforms.”* Therefore, one can perceive a conflict between the editorial and the digital media. The same survey also highlighted the fact that *“in Romania there is no legislation or self-regulation at the level of the profession which should prevent a conflict of interest, limit the direct or indirect control of political parties or protect the autonomy of the media when it comes to choosing the editors-in-chief. For the news sites the risk is even greater.”* Therefore, the European Commission itself observes and highlights that there is an important problem at the present media level: there is no legislation in this field. This fact leads to only one conclusion: we have to legislate the press (PETRE, 2010).

Lately, the lack of governmental interest for journalism and media, increasing censorship and self-censorship represent the main characteristics of the media landscape. The media were turned into tools of political propaganda. They are highly politicized, their funding mechanisms are opaque or even corrupt, and their editorial policies are subordinated to the interests of their owners. These disturbing events became a common practice in Romania.

Analysing the present situation of the political regulations in the field of the media from Romania, it is a very specific one and determined by a number of factors: an archaic broadcasting system, poorly-trained journalist and a set of political and economic interests⁹.

When it comes to **applying media standards in the Romanian media**, we consider that some clarifications need to be made. Therefore, these standards apply to the good practices of the journalists. Therefore, the media standards in Romania should mainly focus on the following five ideas¹⁰:

- Honesty: journalists have to be honest with the reading and viewing public. It is not acceptable to offer information which they know that they are fake or to mislead and deceive public opinion;

- Independence and objectivity: journalists should avoid those subjects which bring them financial benefits because such interest might be subjective and bias. If a journalist has a specific financial or personal interest, this interest should be revealed;
- Fairness: journalists have to impartially and neutrally present facts, presenting other viewpoints or sides of the story in which they exist.
- Diligence: a journalist has to gather and present pertinent facts in order to offer a good understanding of the reported subject;
- Responsibility: a journalist has to be responsible for his work and ready to accept criticism and consequences.

We view all these standards as a desideratum of written and audiovisual press and especially of the Romanian public opinion, a desideratum whose sole purpose is to create a truly impartial and unbiased media.

The Romanian media has grown organically, with less worry for durable development and without any conservation objectives. In a continuous love and hate relation with politics, most times financially dependent on it and other times with obscure financing, the Romanian press is going through a new period of change, generated both by the access to technology and the new economic circumstances. In the next years, the Romanian society will have to essentially act in this direction, that of protecting the sources of information.

At the moment, the trust in journalism is low, including in Romania. This aspect has to be taken into account by the entire guild of journalists. More transparency by explaining the processes in the newsroom, entering into a conversation with the public, returning to the needs of the community are steps that seem simple, but, in the current context, require a sustained effort of will (SCHNELL, 2016).

The Romanian journalistic community, seldomly solidary, did not consolidate its social status, nor did it join the union in order to defend itself against abuses or rapid social changes, remaining the only liberal profession without a proper coordination system and without a unitary legislation in the field.

This study presents the fact that, at the moment, investigations are not to be found in most media products and therefore the tendency of the authorities to “punish” the media is no longer absolute, although, for the critical journalists, especially those from Bucharest or from hot counties such as Teleorman, the 2016-2019 period was difficult. Octav Ganea said that *“the Dragnea period”* represented the most terrible one for journalists, an opinion also shared by Costin Ionescu: *“the relation between authorities and journalists was very bad, especially because of limiting the access to information. If during Nastase’s time the direct control was perceived more powerfully, during Dragnea’s time there was a huge pressure, including continuous and explicit threats.”* Andreea Pavel says that what happens in Bucharest represents a warning signal and a reason to worry for the local: *“I am concerned by the wave of threats against journalists from Bucharest because, if things get out of control there, we shall disappear at the first sign.”*

At the moment, one-off solutions are being circulated, which will solve wider problems in a cascade. It is proposed to relocate the National Audiovisual Council and public media institutions on a new path, which focuses on the public interest and the correct need for information of citizens is the most important. Here solutions mainly refer to the political vectors which have to stop controlling these institutions and to think that if they finance them, they have the right to “own” them. The existence of the National Audiovisual Council which applies the law un-discretionally, constantly and predictably represents the optimum solution for the media in the audiovisual space and it might show the public that there is also a different way of doing things. Escaped from the political and personal control of some of the beneficiaries of the present context, the public radio and television stations and Agerpres could set the tone for a journalism in the public interest, with both the people and the financial resources provided for this type of journalism.

An innovative solution is that of starting some Schools of Journalism. Of course, this change will take years and require much will on behalf of those involved in forming future journalists, therefore imposing *new standards in the modern*

journalism. They, alongside the whole industry have to go through a profound transformation in order to succeed in answering the current needs of the profession. Firstly, the curriculum has to be updated to the realities of technology and of the digital era. Journalists say that it is also necessary to retrain some of the teachers.

Our point of view is that one should impose a Code of the press, consecrated by the law which should include both the general principles and norms and the special rules regarding some extremely controversial aspects (SCOLERE et al., 2018).

Another issue is that of creating some qualitative standards for the Romanian journalism, through a new regulation of the right to reply, of media insult and slander, the consecration of deontological norms, professional training and recognition, the establishment of the rights and correlative obligations of employers and workers, trade union rights and special guarantees imposed by the practice of a public profession, exposed to high risks and constraints, the establishment of a strong professional organization.

Following its expansion, the EU encounters a democratic deficit due to the absence of the European public sphere. One speaks about a post-national Europe whose evolution depends on the emergence of a new public sphere. The development of the EU is tightly connected with the existence of this sphere as a space of communication.¹¹ The European public space does not represent a mechanical summing of the national spaces of the countries, but a new reality which exists according to its own norms. The European public space communicates with the national public spaces and its consistency and legitimation depend on what the agents of the national space offer it. News regarding the national societies in the European public space are developed and broadcasted from the national spaces. Let us recall that Europe’s leading media recruits correspondents from nation-states and, less frequently, broadcast on-the-spot news reports from central newsroom editors.

In 2007, following Romania’s accession to the EU, the press was mainly concerned with internal political tensions, with the conflicts between the representatives of the state’s institutions and neglected the effects of these conflicts on the

Europeanization of the Romanian society. There is no media agenda that permanently reflects the real problems of Romanians regarding the new position of the Romanian state – member of the EU.

In the post-communist societies, the media encourages the point of view of the party's elites and also the opinion of different social groups.

Mass media represents an important presence in the public sphere but they do not promote the norms and values of the society, but they mostly encourage the opinions of the political elites and not the same extent the opinion of different social groups.

The events following Romania's accession to the EU showed a deficit of democracy and the media did not represent a coagulation element of the public sphere integrated in the European public sphere. News only marginally refers to the European lifestyle.

The role of the media in the Europeanization of the national public space is exercised not so much in terms of communicating political messages, but in the ability to reliably convey information about European lifestyles and behaviours. It remains to be researched to what extent the public is effectively concerned with the political decisions taken at the level of the European institutions, and transfer to the local politicians the task to act in its name in order to express the political problems of the country.

The conclusion which imposes itself is that both the media in Romania and in the other European countries suffers mainly from the ostentatious efforts of those who led the guild for purposes that did not take into account the general interest, creating a privileged position that ignores fundamental legal and constitutional principles and standards, transforming the fundamental right of the freedom of the press into a slogan meant to hide various and serious abuses.

References

JONES, A.C. (2004) *Transfrontier Media, Law, and Cultural Policy in the European Union*. In: SEMATI, M. (ed.), *New Frontiers in International Communication Theory*, Oxford: Rowman & Littlefield Publishers, pp. 157-178.

MARINESCU, V. (2009) *Research in communication Methods and techniques* [in Romanian]. București: C.H. Beck Publishing House.

PETRE, R. (2009) *Romanian institutional design and media policies in a European context; cultural structures and trade pressures* [in Romanian]. In: Munteanu, M. & Todi, A. (eds.), *Media-language, culture and access to reality*. București: University Publishing House, pp.13-28

PETRE, R. (2010) *Media Regulatory Bodies in Romania; the limits of institutional change*. In: Coman, M. (ed) *Models of, Models for Journalism and Communication*. București: Ars Docendi Publishing House, pp. 290-298.

SCHNELL, C. (2016) *Journalism and its Professional Challenges*. In: DENT, M., BOURGEAULT, I.L., DENIS, J.L. & KUHLMANN, E. (eds.). *The Routledge Companion to the Professions and Professionalism*. London: Routledge. pp. 371-384.

SCOLERE, L., PRUCHNIEWSKA, U. & DUFFY, B.E. (2018) Constructing the Platform-Specific Self-Brand: The Labor of Social Media Promotion. *Social Media + Society*, IV(3), pp. 1-11.

SURUGIU, R. (2013) *Magazine Journalists in Romania. Working conditions, institutional pressures and job satisfaction*. In: Roventă Frumușani, D. (ed.) *Gender, discourse, organizations*. București: Tritonic, pp. 89-120.

Endnotes

- ¹ EU Council Press release 18 May 2021, Press release
- ² Address by Ms Graça Fonseca, Portuguese Minister of Culture, EU Council Press release 18 May 2021
- ³ European Commission - The Center for Media Pluralism and Media Freedom is co-financed by the European Union, Country report: Romania, Published in July 2020.
- ⁴ Hendrik Sittig and Johannes Weberling Southeast European Media Law Days, Frankfurt am Main, 01.12.2021
- ⁵ Speech by Adamowicz, rapporteur for the EPP, Magdalena Poland, 03.11.2020
- ⁶ Interview with Thierry Breton, Commissioner for Press Freedom, TV Digi 24, 12.01.2022
- ⁷ Commentary by Council of Europe Commissioner for Human Rights Dunja Mijatovic in a Memorandum according to AFP, quoted by Agerpres, Digi 24 of 30.03.2021
- ⁸ Ioana Avădani, interview at the Center for Independent Journalism, interview given to Tribuna magazine, 2017
- ⁹ Center for Independent Journalism Media status in Romania, 2020
- ¹⁰ Frost, Chris London, *Ethics and Regulation of Journalism* 3rd edtn: Pearson Education 2011.
- ¹¹ Erik Oddvar Eriksen, *Making The European Polity, Reflexive integration in the EU*, 2005