

STATE POLICIES AND LOCAL PRACTICES IN THE APPLICATION OF THE EUROPEAN COUNCIL'S MEDIA STANDARDS

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Abstract

We consider that the media standards in Romania (honesty, independence and objectivity, correctness, diligence and responsibility) represent a desideratum for the written media, the audiovisual, as well as for the Romanian public opinion, whose sole purpose is to create a truly impartial and unbiased media. The Romanian press has grown organically, with not enough care for durable development and without any goals for conservation. In an on-going love-hate relationship with politics, most of the times financially dependent on it and at other times with obscure financing, the Romanian press is going through another period of change, generated by both the access to technology and by the new economic circumstances. In the following years, the Romanian society will have to essentially act in this direction, that of protecting the sources of information. At present, the trust in journalism is low, including in Romania. This aspect has to be taken into account by the entire journalists' guild.

Keywords: *media standards, desideratum, the decision-making sphere, deficiencies of the legal framework, audiovisual.*

The issue we wish to address in this article is based on understanding the problematic which deals with both the state's policies and the media standards from the decision-making sphere of the European Council, but also with application for the Romanian society which is currently facing an essential problem, namely, the lack of a Press Law that would regulate and at the same time eliminate the shortcomings of the legal and normative framework in the field of mass media, as well as free the mass media by the political interests that manifest themselves at present.

Therefore, on May 18, 2021, the European Council issued a few significant conclusions regarding the recovery and transformation of the European mass media in certain fields of activity such as: the audiovisual industry and the news media sector represent important economic actors (BECIU & PERPELEA, 2007).

Within this meeting of the European Council, the Ministers requested efforts in order to *"make sure that the audiovisual industry can more easily reach the European and international markets and public. In order to stimulate the circulation of the European content in Europe and at the international level, cooperation in terms of production and distribution has to be facilitated. It is also essential to support the trans-border cooperation between actors on the audiovisual market."*

In this regard, we consider that this initiative is commendable, its sole purpose being that of valuing the media within the entire European space in order to support the audiovisual and the news media sector (DRĂGAN, 1996).

The media policies and the local practices in the field were blocked by the COVID-19 pandemic. Therefore, the European Council recommends all member states to value the opportunities offered by *The recovery and resilience mechanism*, a EU post-crisis financial tool and to invest in the acceleration of the digital transformation and of the green transition of the audiovisual sector and news media.

We know mention the most important local policies and their practices established by the European Council (GROSS, 2004):

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

The media plays an essential economic, social and cultural role, being an important job generator, essentially contributing to the propagation of European lifestyle, history, culture and values throughout the world. Every EU member state is currently confronted with various threats, challenges and opportunities. However, recent political developments place the EU in the foreground of the debate regarding

upholding, protecting, supporting and promoting pluralism and media freedom in Europe.

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

Here we have in mind the fact that the existence of a responsible and credible journalism is essential. Journalists have the duty to verify the information they broadcast to the public; the freedom of the press must not be conditioned by compromises and ambiguities or even by unverified information, most of the times with a tendentious character. There is however a border: the delimitation between responsible journalism and social bloggers/anonymous actors is no longer clearly delimited, in which the role of editorial responsibility and the responsibility of both traditional and new media. It is essential to educate consumers regarding the media starting from a very young age. By defending media freedom and pluralism we ensure its proper management.

➤ **the creation of a unique European market for the media services**

At the moment, there are various online/digital publications which refer to the subsectors of the editorial sector, and some improvement in interoperability, portability and cross-border availability is needed to facilitate their consumption in Europe. Should these aspects be resolved, the cross-border development of new media enterprises may enrich the media service ecosystem and may create economic growth and jobs.

➤ **the concentration of the media: the promotion of higher transparency regarding media ownership**

Media ownership has to be transparent and the national regulation authorities have to closely monitor this aspect, taking into account its role in ensuring media pluralism.

The role of media transparency on technological platforms is one that creates responsibilities on both sides: press trusts and public opinion. Therefore, we speak about a dangerous public opinion manipulation tool by publishing on the Internet, through comments, offensive and fictitious information on topics particularly sensitive to the target audience, which may therefore have a strong negative effect on a large number of people.

The public radiobroadcasting and television service plays an important role in the EU member states. The fulfilment of this public service mission aims at ensuring cultural and linguistic diversity, entertainment, educational programmes, the correct and objective information of the public, the guaranteeing of opinion pluralism in the provision of quality programs, free to retransmit, as well as ensuring the freedom of expression of program makers and interlocutors, in accordance with the legislation in force.

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

The audiovisual policy and strategy field refers, on the one side, to the *freedom of expression* and to the *unhindered access information of public interest*, including the principle of the free circulation of the services from the four meaning – the free circulation of people, services, capitals and goods – which lie at the basis of the Treaty of the European Union and, on the other side, the fact that *the audiovisual represents an inexhaustible source of information*.

The freedom of expression and information 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, a factor of its progress.

In reality, however, in the sphere of the policies of the member states of the Council of Europe there is a serious problem namely the constitutional limitations of the states which fail to keep under control the illegal and criminal phenomena in the online environment. The scope of the problems regarding the limitation of the exercise of fundamental rights and freedoms in this environment includes, but is not limited to, children's access to pornography, the content of racist or xenophobic websites, anonymous expressions, insults and slander. A distinct situation is represented by the media problem of the EU member states from South-East Europe. Therefore, according to media specialists

Johannes Weberling and Hendrik Sittig, “the EU completely failed to ensure the freedom of the press” (VĂLCU, 2007).

The two specialists were invited to the *South-Eastern Europe Media Law Days* at Frankfurt on Oder, a manifestation organised on December 1 and 2 at Europe University in Frankfurt. They criticise the aspect of hindering the freedom of the press, as a state policy and media standard. Therefore, in their opinion, *“journalists and media institutions from South-East Europe are under pressure: through the strategic complaints of oligarchs, attacks and the repatriation of European money only towards the media institutions close to the governments. For quality journalism this is not at all easy. Simultaneously, the media market is profoundly changed by online platforms such as Facebook and YouTube.”*

Some serious criticism regarding the EU is made by specialist Johannes Weberling, who clearly states that: *“the EU represents a complete failure in ensuring and supporting the freedom of the press in South-East Europe! On the surface, there are some critical discourses such as the ones related to the evolutions in Hungary. Practically, however, the EU contributes to the worsening of the situation of the freedom of the press, as it makes national governments responsible for the assignment of European funds for the budget regarding the information system, meaning that it puts the wolf as the guardian of the sheep. If money was granted on the basis of some objective criteria, it could support quality journalism. I cannot understand why the European Union has not yet changed things in this particular field...”*

As if he wanted to complete, Hendrik Sittig, stated: *“in many places it was thought that the democratic deficiencies will resolve themselves following the EU integration. This wasn't however the case. In many countries we even noticed some backwards steps in the democratic development and in ensuring the freedom of the press. The basic structural problem is that in South-Eastern Europe the media markets are very small. That is why the links between politics, the business environment and the media are particularly close, which is disadvantageous for an independent media system... This is where the EU is needed as a community of values. I am glad that the current European Commission is addressing the deficits in respect for democracy and the rule of law much more directly.*

The millions of euros distributed by Brussels to the member countries in recent years for information budgets and European campaigns represent the best example. Especially in South-Eastern Europe, where advertising funds from the commercial sector are very limited, community financial support has mostly reached only media institutions close to the rulers. This is where tighter controls and transparency are needed.”

In this regard, a press release of the European Parliament mentions a resolution from November 25, 2020 which explicitly stipulates the fact that: *“the Parliament draws attentions to the attempts of the governments of some member states to silence the critical and independent media and to undermine the freedom and pluralism of the media. The European deputies are mainly worried by the situation of the public media in some countries of the European Union, where the means of mass communication have become an example of pro-government propaganda.”*

The deputies emphasize the fact that media freedom, pluralism, independence and journalists' safety represent key elements of the right to free expression and information and are vital for the democratic functioning of the Union and of member states.

It is also worth remembering the statement made by Magdalena Adamowicz, on behalf of the European People's Party: *“Today we witness a rebound of democracy, the seizing of power through lies. There is no freedom without the independence of the media, there is no democracy without the pluralism of the media. The media should serve the truth, not the lies. It has to act in the service of voters, not of those who are in charge and it should represent a means of control for the power. The media should protect democracy, but it can also kill it. This is the reason why it should be independent”* (RANDALL, 1998).

In support of these statements comes a Draft Law that the European Union adopts to guarantee the independence of the press, in the context of the increasingly serious situation in Poland and Hungary. Therefore, the European Union shall adopt a legislative text which guarantees the independence of the press from all EU countries, said the European commissioner for the internal market Thierry Breton, as the situation with the press is becoming more and more worrying in countries such as Hungary, Poland or even the Czech Republic: *“We are working on a Media*

Freedom Act. Its purpose must be to guarantee the independence of the press market and increase its resistance... We want to act against any type of unjustified interference in the activity of media companies," said the commissioner at the event organized in Paris by France Televisions. "We want to reflect on how to strengthen the governance of public media" (RACHIERU, 2003).

According to the Council of Europe, the authorities of the country led by the sovereign Prime-Minister Viktor Orban systematically attacks the defenders of human rights and the investigation journalists. All this happens "with the purpose of sending a clear message: there will be reprisals against any form of criticising the government," notes the memorandum. Moreover, Hungary ignores the decisions of international courts and this shows that the government doesn't have any intention of obeying the law, "*an essential precondition for the freedom of expression*," according to commissioner Mijatovic (PETCU, 2007).

In order to solve this situation. Dunja Mijatovic considers that Hungary must amend its legislation to divide the excessive powers of the chairman of the Media Authority between several indigenous bodies. The relations between Viktor Orban and the European institutions started to deteriorate more than a decade ago. Hungary was criticised on numerous occasions on the topic of the freedom of the press, especially last month when Hungarian authorities refused to renew the license for Klubradio, the most important independent radio station in Hungary, oftentimes critical to the government in Budapest.

A separate aspect is represented by the policy and the media standards of the Romanian media. In recent years, this subject has been briefly approached, divided into various fields (advertising, access to information and personal data, freedom of expression and defamation, etc.), without an extensive analysis of the defective aspects that contribute to the stagnation of mass media evolution in a democratic society.

In Romania, there are some policies regarding the mass media, but they are diffuse, without consistency, the press being enslaved in a clientelist way to the political power in government as well as in the opposition. So, looking through the prism of contemporary

Romanian realities, of the mass media in particular, we notice the fact that, in Romania at present, there is only one legal norm that regulates the aspects related to the media in the audiovisual field, for example, namely the Audiovisual Law no. 504/2002 and Decision no. 220/2011 on the Audiovisual Content Regulation Code, the rest of the rules have represented some timid attempts to regulate the press, depending on political interests, starting with 2004.

At the moment, there are three policies regarding the media in Romania: the written press (on the verge of extinction), the audiovisual and the digital press (World Wide Web, Blogs, Feeds, RSS, Podcasts, etc).

It is obvious that the three policies we mentioned above are presently used with patronage-oriented and party-based purposes. Therefore, for example, the paradigm in which the present Romanian press conducts its activities has negative effects on the economic, political and social landscape. Firstly, due to the non-performance of the role as a watchdog of the democracy, there is a current tendency of not legally regulating the main frame of the mass-media.

The profession of the journalist has a lot to lose in other fields, reaching the phenomenon of lacking professionalism in the branch. Thus, one creates the premises and the fertile ground for the development of the corruption because no media channel which had malign interests has legitimacy any longer in entering the fight against the corruption. The lack of real public opposition leads the politicians to the use of the practices we will speak about in the following comments freely: the use of the public funds to finance the press, patronage-oriented hirings, masked or fixed contracts and so on.

In order to finance all the existing media institutions present in the market, one uses the budgets of the public institutions, who throw generous amounts of money to further promote the mayors and the managers of the institutions rather the institutions proper, their projects or objectives.

In Romania, the pluralistic media market is the field most prone to risk (76%) of the four fields analysed within the Instrument of

monitoring the pluralistic mass-media, together with the basic protections of the right to free speech and information, the political independence and the social inclusion (GOLDBERG et al., 2013).

According to this study, at the present time there are two major risks: «*the influence of the owner or of the traders over the editorial content and the degree of concentration of the online platforms*».

Therefore, we can infer a conflict between the editorial press and the digital press. This report also underlines the fact “*that in Romania there isn't any legislation or self-regulation at the level of the profession which would prevent the conflict of interests, limit the direct or indirect control of the political parties or protect the real media autonomy in hiring editors-in-chief. When it comes to news websites the risks towards the political independence are even greater.*” This is why even the European Commission states and underlines the fact that, at the level of the present mass-media, there is a big problem: there isn't any legislation in this field. This fact leads us to a sole conclusion: it is necessary to legislate the press, its concrete reform regardless of its forms.

Lately, the lack of interest on behalf of the government towards journalism and media, the political censorship and the growing self-censorship are the main characteristics of the present media landscape. The media have been gradually transformed into instruments of political propaganda. They are highly politicized, their mechanisms of financing are hidden or even corrupt, and their editorial policies are aligned with the owners' interests. These disturbing phenomena have become an everyday practice in Romania.

Analysing the present situation of the policy regulation in the field of the Romanian mass-media, one can see that is particular and determined by a plurality of factors: an archaic and ruined system of distribution and self-appreciative and poorly-trained journalists, and above all these, a bundle of political and economic interests (BERTRAND, 2001).

When it comes to the implementation of mass-media standards in Romania we believe that a number of considerations must be made. Thus, these standards are applicable to the journalists' good practices.

This way the media standards in Romania should mainly focus on five aspects as following (GAILLARD, 1996):

- **Integrity:** the journalists must be sincere towards the readers and the viewers. One cannot accept that they convey pieces of information about which they know they are false or make the public to believe deceiving information;
- **Independence and objectivity:** the journalists should avoid subjects that they could bring them financial gains because this interest is subjective and one-sided. In those cases in which the journalist has a financial or personal specific interest that interest should be brought to light;
- **Correctness:** the journalists should present the facts with impartiality and neutrality, presenting other views and sides of the story when they exist;
- **Diligence:** a journalist should gather and present relevant facts in order for a better understanding of the subject reported;
- **Accountability:** a journalist should be responsible for their work, and be ready to accept criticism and consequences.

We consider these standards to be an objective of the written and audiovisual press and, moreover, of the Romanian public opinion, an objective solely aimed at the creation of truly impartial and unbiased mass-media.

The Romanian press has grown organically, with less care for durable development and without conservation objectives. As it is in a continuous relation of love and hatred with the politics, many times financially dependent on them, the Romanian press lives a new period of change generated not only by the access to technology, but also by the new economic conditions.

In the following years, the Romanian society will have to essentially act towards reaching the above-mentioned objectives, including the protection of the journalistic sources.

At the present time, the trust in journalism is low, including in Romania. This aspect must be considered by the *whole branch of journalists*.

More transparency through the explanation of the editorial processes, engaging the public in

discussion, the return to the community needs some simple steps, but, in the current context, they imply a sustained effort of will.

The Romanian journalist community, rarely united, did not consolidate their social status and did not form a union, therefore, being able to defend against abuses or rapid social changes. It remains the sole liberal profession with its own system of co-ordination, without a unitary specialised legislation.

This study shows that, at the present time, investigative reports are absent from most of the media products. It is in this way in which the tendency of the authorities to punish the press is not absolute any longer, even if for the more visible journalists, especially those based in Bucharest and in the hot counties such as Teleorman, the years 2016-2019 were difficult.

Octav Ganda says that "the Dragnea period" was very harmful to the journalists, a view shared by Costin Ionescu: *"The relation of the authorities with the journalists was very bad, especially through the limitation of the access to information. While the Nastase administration sought a stronger direct control, the Dragnea period saw a very strong pressure, including overt threats, all day long and in the broad daylight."*

Andreea Pavel says that what happens in Bucharest is a sign and a reason of concern for the press: *"I am concerned with the wave of threats aimed at the Bucharest-based journalists because if things get out of control there we will disappear at the first sign."*

The present times see particular solutions, which will solve even larger issues gradually. People propose the reform of the National Audiovisual Council and of the public media institution on a new path, focused on the public interest and the need for correctly informing the citizens. The solutions must come from the political actors who must get rid of their hold on these institutions and stop believing that through funding they gained as well the right to "own" them. The existence of a NAC which applies the law with neutrality constantly and predictably is an optimal solution for the mass media in the audiovisual space and shows the public other ways. Out of the political and personal control of some of the beneficiaries of the current context, the Romanian Public News Channel, the Public

Radio and Agerpres could pave the way for the public interest in journalism, having not only the people, but also the funds assured for this type of journalism.

An innovative solution is the establishment of the *Schools of Journalism*. Of course, this change will last some years and will require more will and accountability on behalf of those engaged in the education of the future journalists, therefore pushing for *new standards in the modern journalism*.

These standards as well the whole industry must follow a profound change in order to answer the present needs in the field. Firstly, it is necessary to bring the curriculum to the present time and the adjustment to the technological and digital realities. It is necessary as well to reform the professional thinking of some of the educators, the journalists say.

We are of the opinion that a Press Code stipulated in the law which would include general principles and norms as well as special rules in particular and controversial aspects is necessarily required.

Another concern regards the creation of qualitative standards of the Romanian journalism, through a new regulation of the right to reply, of the affront and of the defamation through the press, the establishment of the professional norms, the professional training and certification, the establishment of the rights and obligations of the owners and the workers, the union rights and the special guarantees imposed by the performance of a public profession exposed to great risks and constraints, the establishment of a strong professional organisation.

Therefore, the European Union sees a democratic deficit after the expansion because of the absence of the European public sphere. There are discussions about a post-national Europe, whose evolution depends of the emergence of a new public sphere. The development of the European Union is closely connected with the existence of this sphere as a space of communication (BAKER, 2008). The European public space is not a mechanical total of the national spaces of the member states but a new reality which functions according with its own norms. The European public space is communicating with the national public spaces

and its consistency and legitimacy depend of what the agents of the national space offer.

The news reports about the national societies in the European public space are edited and sent from the national spaces. It is worthy to recall that the established media in Europe hire correspondents from the national states and rarely send news from the place of the event relayed by the central station.

After the 2007 admission of Romania, the press focuses even more on the political internal tensions, on the conflicts between the representatives of the main state institutions and ignore the effects of such conflicts on the Europeanisation of the Romanian society. There isn't a mass media agenda which would reflect the permanent real problems of the Romanians regarding the new status of the Romanian state - member state of the European Union.

In the post-communist societies mass media encourage the viewpoint of the party elites, but not in the same degree the opinion of various social groups.

Mass media is a very important presence in the public sphere, but it does not promote values and norms of the society, but encourage mainly the opinions of the party elites.

The events in the post-admission period in Romania have shown a deficit of democracy and the mass media do not act as a coagulating factor of the public sphere integrated with the European public sphere. Mass media reports make marginal comments on the European lifestyles.

The role of the mass media in the Europeanisation of the national public space is exerted not only as much in the field of political communication, but mainly in the ability of conveying credible pieces of information about styles and behaviours in the European life. It remains to further research the manner in which

the public is actually concerned with the political decisions made at the level of the European institutions and seeks to transfer to the local politicians the duty of acting in their name for the affirmation of the national political issues.

The self-arisen conclusion is that not only the Romanian mass media but the European mass media as well lack essential overt efforts on behalf of the managers to take into account the general interests, thus creating a preferred status and ignoring the fundamental legal and constitutional principles and standards. The fundamental right to the liberty of the press came to be seen as a slogan covering serious abuses.

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