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What do we do with virtual freedom that has outputs into the real world? Once again, it's about regulating the Internet

The initiative of the General Prosecutor's Office concerning the National Committee for Cyber Security, which was made public some months ago, triggered controversy. "Some experts qualified this intention as one with a high risk of censorship, while others believed that cyberspace in our country should have been regulated long ago." [1]

Such a reaction was to be expected. The State wants to make order, and the "citizens of the network" ("netizens") want to protect their "legislative paradise" from any interference. Similar conditions have caused similar reactions everywhere in the world. In this sense, Moldova, a district of Marshall McLuhan's "global village," is no different than the other districts.

The Internet needs regulation. It is a truth shared by a predominant majority of Internet users. The reason for regulation is that some actions in the cyber world generate grave consequences in the real world.

The notion of "regulation" has two meanings. In a broader sense, it implies rules of behavior set by an authority recognized by those it addresses. In a narrower sense, it means compulsory rules set by the State and sanctions for their violation. We will mainly use the term in its narrower sense.

The many attempts that countries have made so far to institute efficient control over the Internet have failed. Recent proof is the results, or rather the lack of results, at the World Conference on International Telecommunications (WCIT-12) that took place in Dubai in December 2012 under the aegis of the International Telecommunication Union (ITU), a specialized United Nations agency responsible for communication and information technologies, with 192 member states. EU members and the USA rejected proposals that came from China, Russia, and other countries that aimed to change the current system of Internet management. [2]

In other words, the countries of the world, realizing the need to regulate the Internet, continue to have differing opinions about the way in which this goal can be achieved.

Regulation is imminent as the Internet, despite bringing great benefits to users, is also a source of great danger. At the level of the EU, a document on illegal and dangerous Internet content [3] synthesized the values that need to be protected from injurious acts in the electronic environment, namely: national security;

minors; human dignity; economy; databases; private life; and intellectual property. In fact, all these constitutionally protected values revolve around the highly sensitive issue of freedom of expression on the Internet.

So on the one hand, the State has the obligation to ensure the rights of its citizens, including freedom of expression, even in cyberspace, but on the other hand, it must honor its obligation in a space that it does not own. The Internet is for all and for everyone. The Internet is an unlimited global space while the State is a local, limited space. And the State found itself with the task of "reigning in" over two billion daily Internet users, most of whom are beyond the geographical territory that it governs and in a space that it does not own. It is the great challenge of the Internet in its relation with the State.

It is true, the State does not own the Internet, but the State has citizens to whom it must guarantee, ensure and protect constitutional rights. In this context, there are three questions that I don't know the answer to: How many countries have the word *Internet* in their constitutions? If the constitution of a country says nothing about the Internet, is the country obliged to ensure the rights of its citizens in cyberspace? Does the State have legitimacy to regulate a field that it does not own?

Although there are no univocal answers to these questions, they must be sought and found given that the Internet has become a social reality but not a legal reality yet. Such important universal values as equal rights, secrecy of correspondence, the right to information and freedom of assembly among others need legal revalidation if we share the conviction that the protection of fundamental rights and freedoms of citizens must remain essential even when they are netizens. If we do not share this conviction, we must admit the at least ridiculous situation when in the real world citizens are more protected than in the virtual world, even if we are considering one and the same citizen.

As if anticipating the possible reactions of the State to the harmful phenomena generated by the Internet, an American lawyer two decades ago was wondering whether amendments to the US Constitution were needed to clearly state that the provisions of this supreme law extend to the methods or technological media by which information is created, stored, modified, transmitted or controlled.

In the end, no reason could be found to attribute special legal treatment to the Internet as it is an environment similar to post, telephone, television or radio. Thus, it is considered that the authors of the US Constitution created a visionary legal document that is “adequate to any technological landscape.” [4]

It is definitely good to know the benefits of the Internet and to capitalize on them. The Internet has become a new type of public domain, and it offers creators of cultural products the possibility to publish their works in the absence of any State interference and without being obliged to use traditional mass media.

Cyberspace allows anyone to make and transmit rational arguments of any nature to other users, and vice versa, anyone is accessible and can be subjected to criticism for any ideas expressed. It is important, essential even, that “no one wear tags” on the Internet. Such characteristics as race, sex, age, ethnicity and social status among others, which often lead to social tensions in the real world, become irrelevant in the virtual one, thus amplifying the equality of users.

Thus, the Internet is the environment for a type of communication that is free of any barriers. Anyone can interact at any time with anyone, discussing anything. Cyberspace allows permanent, simultaneous feedback, a two-way relationship with users who are not determined numerically, geographically, ethnically or culturally. It is a netizen community. Cyber communication, like real-life communication, has all types of content including some that is negative and harmful.

There are, however, some differences, and one of them consists of the much greater anonymity of the authors of dangerous content. On the one hand, anonymity offers a perfect solution for unhindered expression for citizens who in real life do not have the courage to say what they think, to publicly “display” their opinions.

On the other hand, identifying a wrongdoer—the author of illicit content—under the cover of anonymity is much more difficult and often impossible. Modern technical means can identify the computer that was used to distribute poisonous content, but finding a computer does not mean finding the author of the negative content. Moreover, the computer can be located in any country.

Hence, another dilemma: Will the author of the content or his country of residence be responsible?! And if the offender *is* found, should the sanction be jail for the author, fine for the State, or censorship for the Internet? And who should apply the sanction?

No one negates the existence of defects in the online network such as cyber terrorism, information frauds or the destructive nature of poisonous content on pedophilia, adult and child pornography or recipes for explosives. At the same time, an attempt to control the Internet by censoring content can reduce access to information and restrict freedom of expression which, as it is generally known, are constitutional rights treated with special attention in democratic countries.

Nevertheless, attempts to control content on the Internet do not cease, even in democratic countries. In this context we find relevant the decision of the US Supreme Court on its examination of the constitutional character of the Communications Decency Act of 1996 [5], which Romanian researcher Dr. Horatiu Dan Dumitru mentions in his study titled Constitutional Challenges of the Internet („Provocari constitutionale ale Internetului”). [6]

The court found that control over the Internet is not achievable due to mass access to this new medium. Seen as the most developed medium of mass communication, the Internet requires the greatest protection from State interference.

Recognizing the appropriateness of protecting minors from indecent electronic content, the court at the same time found that laws should not be aimed at adults by indicating the content they should access. Prohibitive rules of law are likely to raise barriers to access Internet resources on contraception, the control of sexually transmitted diseases, sex education and the like.

For these reasons, the law undermined the freedom of expression enshrined in the first amendment to the US Constitution. The Supreme Court also drew attention to the fact that no broad, ill-defined or restricted formulations could be accepted, for example the term “indecent.”

The court also pointed out that although there are many similarities between offline and online communication, the Internet is different from traditional mass media such as radio or television. The court found that neither before nor after the adoption of the Communications Decency Act was the Internet subject to government control and special legislation as in the case of radio and television. The distinction is important because unlike radio and television, access to obscene content on the Internet is rarely accidental, especially if such resources are preceded by clear warnings to indicate the nature of content to users.

Ultimately, the court noted that by its vaguely formulated rules on criminal matters, the law did not provide a clear image of

what is forbidden and what is allowed, and the uncertainty could discourage citizens from communicating about terms, images and ideas whose content is controversial.

Thus, the court's decision indicated the consequences of the State's repressive reflexes if it gets to prevail over constitutional norms.

A confirmation of the impossibility of controlling the Internet can be found in the results of a study on content regulation conducted by the US National Academy of Sciences [7] which has 150 years of experience and about 200 Nobel laureates: 3/4 of pornographic content comes from abroad; laws prohibiting such content will be impossible to apply; filtering software can be a useful tool for protecting children and educating children on Internet safety is critical. "An analogy in this regard might be the relation between pools and children. Pools can be dangerous for children. To protect them, one can install locks, build fences or set up alarms. All these measures are useful, but by far the most important thing that can be done to protect children is to teach them how to swim." [8]

The inefficiency of "excessive zeal" is also conclusive in the case of the American company America Online that to strengthen its public image initiated an electronic campaign to identify and block Internet resources containing, among other things, the word "breast" in order to target pornographic websites. As a consequence, many women who used web pages to search for information on breast cancer were unable to use the resources. [9] In such situations, web surfers with flawless online conduct have to suffer.

The rules and actions that favor some people while disfavoring others are unacceptable. The international nature of the Internet dictates the difficult (or impossible) task of setting globally accepted legal norms in the context of great cultural differences. It is enough to remind the public that while pedophilia is condemned by most countries, there still are countries where sex with teens is a component of the local culture and mentality that sometimes has religious, therefore deep and durable, roots.

Control over the Internet is problematic, and censorship in cyberspace is either useless or detrimental. There are at least four reasons to resist censoring the Internet. [10]

- Censorship will reduce the amount of information available on the Internet to the level of content similar to that in a child's library.
- There are constitutional provisions prohibiting censorship.
- People's opinions based on the diversity of ideas freely expressed online are instruments that can be used to make

the best decisions.

- Internet censorship is illusory since the Internet was designed to withstand a nuclear war.

To protect the Internet from the repressive reflexes of governments, it is of utmost importance to define with maximum clarity such notions as "illicit," "indecent," "pornography," "pedophilia," "obscene content" and "negative content" among others. Otherwise, the alleged defenders of morality on the Internet will send us to the national library to look for Shakespeare's *Romeo and Juliette*.

In this context, we find useful the experience of the USA which over time has established the practice of qualifying the places usually designed for free expression as public forums, i.e. parks, sidewalks and streets among other things. These places have been historically established as areas where people could exercise their right to free expression in the absence of any constraints.

However, other places that are also intended for the public were denied the status of public forum which determines a certain restriction of freedom of expression. Such places include shopping malls, military bases, sidewalks in front of post offices, airport terminals operated by public authorities, personal mailboxes and universities (with some exceptions).

Given such legal solutions, one can formulate certain notions on the public or private nature of some components of the Internet.

- Electronic mailboxes, mailing lists and newsgroups moderated by a person cannot be qualified as public forums.
- Non-moderated newsgroups and chat rooms can be seen as public forums.
- A web page can obtain the status of public forum in some cases depending on whether it includes a message board and has a human or mechanical moderator. [11]

Countries with democratic constitutions understand perfectly well the positive qualities of the Internet and raise no artificial legal barriers in their cyber territory. For example, the court decision finding the Communications Decency Act unconstitutional contains the following statement: "...the Internet may fairly be regarded as a never-ending worldwide conversation. The Government may not, through the Communications Decency Act, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from governmental intrusion." [12]

At the international level, efforts have been made to strengthen freedom of expression in cyberspace and to minimize censorship and control. For example, in November 2002, the World Press Freedom Committee at a meeting in Vienna issued a statement [13] in which, among other things, it advocated for news in cyberspace to be given the same protection of freedom of expression as in traditional mass media, and that new technologies should not require reconsidering fundamental rights and freedoms, including the freedom of expression.

At the level of the Council of Europe, in May 2003 the Committee of Ministers adopted the Declaration on Freedom of Communication on the Internet [14]. By signing this declaration, the member states committed to observe the 7 principles of communication on the Internet as follow.

- Member states should not subject content on the Internet to restrictions that go further than those applied to other means of content delivery.
- Member states should encourage self-regulation or co-regulation regarding content disseminated on the Internet.
- Member states should not, through general blocking or filtering measures, establish State control over information on the Internet, with some exceptions, especially filters for the protection of minors, in particular in places accessible to them such as schools or libraries.
- Member states should foster and encourage access for all to Internet communication and information services on a non-discriminatory basis at an affordable price.
- Member states should promote freedom in the pluralistic offer of services via the Internet and guarantee to service providers non-discriminatory access to national and international telecommunication networks.
- Member states should not impose on service providers a general obligation to monitor content on the Internet to which they give access that they transmit or store, nor that of actively seeking facts or circumstances indicating illegal activity (limited liability of service providers for Internet content).
- In order to ensure protection against online surveillance and to enhance the free expression of information and ideas, member states should respect the will of users of the Internet not to disclose their identities. This does not prevent member states from taking measures and co-operating in order to trace those responsible for criminal acts.

At a conference in Amsterdam in June 2003, the OSCE issued a relevant document titled “Amsterdam Recommendations—Freedom of the Media and the Internet.” [15] Among the recommendations were the following.

- New technology must not be held responsible for any potential misuse.
- The advantages provided by the Internet outweigh the dangers of misusing it; however, illegal content must be prosecuted in the country of its origin.
- Citizens themselves should decide what information they want to access on the Internet, so all mechanisms for filtering or blocking content are unacceptable.
- Censorship unacceptable for traditional media must not be used for online media, and new forms of censorship must not be developed.

In May 2011, the Commonwealth of Independent States of which Moldova is a part adopted the so-called Framework Law on the Basis of Internet Regulation. [16] Its 3 chapters and 13 articles contain the provisions of many international documents such those promoting non-discriminatory access to the Internet, freedom of expression in cyberspace, information security and copyright protection.

We find relevant a principle provided in Article 5: “limiting the scope of Internet regulation only to those areas for which norms and rules are non-existent or non-applicable, according to the requirements of the legislation in force, established at the international level or *adopted by the self-regulatory organizations of Internet users and providers*” [italics are the author’s].

Remember that all documents we referred to encourage self-regulation or co-regulation on the Internet. This fact should be noted given that all State attempts to regulate the Internet with its vast capacity to impose constraints have either failed or have proved to be inefficient. For this reason, the only ones who can efficiently establish and apply rules online are the network’s users, regardless of whether they are service providers or consumers.

The experience of developing the Internet confirmed and keeps confirming the quite highly efficient application of some non-legal regulatory norms. The network proved that it is able to self-develop and self-regulate, especially among netizens joined by common interests.

Along with “local” rules established inside some separate communities, there have been attempts to develop common rules of conduct for all Internet users. One of the first such productions is the book titled *Netiquette* [17] (from English *net* and *etiquette*) published in 1994 that contained detailed rules for Internet users.

It should be mentioned that the absolute majority of netizens at that time—several million—voluntarily applied the 10 main



Experts of Romania-based RISE Project teach journalists how to research open data on the Internet during a training on data journalism organized by IJC. Chisinau, October 2013

rules (a type of code of good manners in cyberspace) that are as follow.

- 1) Remember to be human.
- 2) Adhere to the same standards of behavior online that you follow in real life.
- 3) Know where you are in cyberspace.
- 4) Respect other people's time and bandwidth.
- 5) Make yourself look good online.
- 6) Share expert knowledge.
- 7) Help keep flame wars under control.
- 8) Respect other people's privacy.
- 9) Don't abuse your power.
- 10) Be forgiving of other people's mistakes.

Written in a language that is simple, accessible and totally different from legal language, *Netiquette* is a set of recommendations still used by many Internet users. The boost in the number of netizens could imply that no one observes good manners online any longer. An impression does not arise from nothing. At the time of publication of *Netiquette*, the people who could afford to surf the Internet were mostly people with a respectable intellectual ethic.

However, the realities of today do not minimize the importance and efficiency of codes of conduct in cyberspace.

The first association in the world to develop a code of conduct was the Canadian Association of Internet Providers (CAIP).

[18] It happened in 1997. Under that code, the members of CAIP undertook, for example, not to deliberately host illegal content.

Later, Italian Internet providers developed their own code of conduct [19]. The Italian code mentions that it was developed by taking into consideration the relevant documents of the EU Council and Commission. In Romania, the first codes of conduct in the field were created by the Association of Leasing Societies in 2004. [20]

Currently, there are dozens of national codes of conduct and even more international codes. For example, the Internet Advertising Bureau (IAB) [21] is an independent international body that develops rules, standards and recommendations for the Internet and interactive marketing to increase the value of advertising on the Internet. Members of the IAB are advertising agencies, owners of online content and consultancy companies among others. Although IAB regulations are in fact recommendations, they are credible and valuable for providers of advertising including multinational firms. Adopting IAB standards is proof of professionalism in the online market.

So, Europe and the world have an experience that is worth taking on. When it comes to self-regulation in cyberspace, Internet users can proceed in one of two ways: either align themselves with an already functional code of conduct that accepts such a practice or develop their own codes.

It is true we have got used to “devouring” the experience of others, although anyone looks good as a generator of experience. In the end, however, the final result is what matters. And this final result should be correct and civilized conduct befitting a human being, even in cyberspace.

Self-regulation is not only the most efficient but also the most desirable alternative to Internet regulation. The State has innate

repressive reflexes that by definition cannot be absent if it proceeds to regulating the Internet.

A concerted effort by all stakeholders motivated by an awareness of the benefits of the Internet on the one hand and the need to safeguard the values related to the balance of a human community on the other hand would allow the continuance of the “land of freedom” and would protect it from dangerous phenomena that stimulate the appetite for excessive regulation.

Ion BUNDUCHI

- [1] http://www.noi.md/md/news_id/29406
 [2] http://www.forbes.ro/Stati-nelinistiti-in-2013-reglementarea-internetului-continua_0_7000.html
 [3] http://www.isoc.org/isoc/whatis/conferences/inet/97/proceedings/B1/B1_3.HTM
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 [6] <http://www.legi-internet.ro/articole-drept-it/provocari-constitutionale-ale-internetului.html>
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 [12] www.landier.com/michael/essays/censorship/fulltext.htm
 [13] <http://www.wpfc.org/index.jsp?page=Statement%20of%20Vienna>
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 [16] http://cikrf.ru/international/docs/mpa_modzakon.html
 [17] <http://www.albion.com/netiquette/corerules.html>
 [18] <http://www.caip.ca>
 [19] www.aiip.it
 [20] <http://www.avp.ro/RAPORT%202004%20text%20fara%20anexe.htm>
 [21] <http://www.iab.net/standards/broadband/index.asp>

Offending comments on the Internet: who is responsible?

The law has always developed under the pressure of new situations and relations; however, there still are areas where the situation has been relatively stable since the Roman era up until now, areas where debates focus on the appropriateness of copying the traditional French or German model and areas in which one cannot claim that there is anything to assimilate or know where potential regulation might lead. Today, the Internet is in the last category.

Since the Internet is omnipresent in our lives—with both advantages and disadvantages— and for many is a form of activity, the attempt of the European Court for Human Rights (ECtHR) to solve one of the acute problems related to activity on the Internet is of great interest. On 10.10.2013¹ the court made public its decision in the case of DELFI AS v. Estonia concerning responsibility for offending comments on the Internet.

Traditionally, a European court judgment is not just a trend but a rule to be followed and transposed into national legislation. The findings in this judgment are to dictate a trend, but the context is essential! Since it is a new area practically without legal precedent, it is very important to know the situation and the logic behind this decision of the ECtHR.

The context is as follows. DELFI AS used to hold one of the largest news portals in Estonia. All news items on the portal could be commented on, and including the name and email address of the commenting person was optional. To publish a comment one had to click the “publish the comment” button, and there was a separate “read comments” button to read others’ comments. Once posted, comments could no longer be deleted or edited. Comments were uploaded automatically and, as such, were not edited or moderated. The portal, which used to publish up to 330 news items per day, could receive up to 10,000 comments daily.

There was, however, a system of notification about inappropriate comments (a notice-and-take-down system); any reader could mark such comments that were later removed. In addition, there was a system for automatically deleting comments that included certain typical obscene words. Furthermore, victims of defamatory comments could notify the portal which immediately removed them. The website had in place a set of rules to prohibit

comments containing threats, insults, incitement to hostility, violence or illegal activities, obscene expressions and vulgarities. The portal announced that it did not edit comments but could remove them if they violated the existing rules and that authors of comments were responsible for their content. The rules on publishing comments also explained the notice-and-take-down system.

In the case judged by the ECtHR, in January 2006 the portal published a balanced news item on an issue of public interest that referred to a material situation causing disadvantages for a large number of citizens. In 2 days the articles attracted 185 comments, and 20 of them contained personal threats and offensive language directed against a person who was the majority shareholder of a company whose actions led to public discontent.

Six weeks after publication, the representatives of the injured person requested the portal to remove offensive comments and claimed compensation for non-pecuniary damage. The comments were removed on the same day, and two weeks later the company that managed the portal issued a written response in which it mentioned that the comments were removed under the obligation resulting from notification about offensive comments but refused to compensate for damages. The injured person brought a suit in Estonian courts and won it. The case reached the European Court which judged in favor of the Republic of Estonia and confirmed the decision of the Estonian Supreme Court.

Since this case is current for Moldovan realities, it is important to understand the arguments that made the European Court reach its judgment and how website administrators in Moldova should act in order to be legally safe.

First, it should be mentioned that the ECtHR said that as a matter of principle, the disputed rights deserve equal respect: the freedom of expression (European Convention on Human Rights [ECHR] Article 10) on the one hand and protection of reputation as part of the right to respect for private life (ECHR Article 8) on the other hand [paragraph 82 of the court’s decision].

It has been established that the parties did not dispute the balanced character of the news item that generated comments or the offensive character of the comments that were removed

¹ At the time when this article was being written, this judgment was not final yet and could be challenged, but the fact that it was adopted unanimously is indicative of the fact that it will remain in force in this form.

after notification. The parties disagreed only on the persons responsible for the comments with the news portal convinced that responsibility lay with the authors of comments [paragraph 84].

Considering the circumstances of the case, the court noted that when publishing the article, the portal should have anticipated that it might cause negative reactions against the company and its managers and that given the generally poor reputation of comments on the website, there was a higher-than-average risk that the negative comments could go beyond the boundaries of acceptable criticism and reach the level of gratuitous insult or hate speech. In addition, the number of comments was above average and indicated a great deal of interest among readers. Therefore, the portal should have taken precautions in order to avoid injuring reputations.[paragraph 86].

The court noted that the portal had taken precautions, i.e. the notice-and-take-down system and the automatic filter that removed comments containing typically vulgar words. However, the latter could be easily avoided, and the court found them insufficient to prevent the harm caused to third persons [paragraph 87]. At the same time, the notice-and-take-down system was easy to use: There was a button provided for this purpose and there was no need to write letters or to formulate reasons as to why a comment was considered inappropriate. (In this case, the injured person preferred to write a claim which resulted in the removal of the comments, but the comments had been accessible to the public for six weeks.) The court found that the notice-and-take-down system failed to ensure sufficient protection for the rights of third persons.[paragraph 88].

The court gave importance to the fact that the publication of the news articles and comments on these articles was part of the portal's professional activity. It was interested in the number of readers and comments on which its advertising revenue depended. It also took into consideration that since it is a large Internet portal, the comments had a wide audience.

The court noted that the company that managed the portal—and not a potentially injured person—was in a position to know about an article to be published, to predict the nature of the possible comments prompted by it, and above all, to take technical or manual measures to prevent the publication of insults. The court considered that the owner of the portal exercised substantial control over the comments published on it but did not use this control to the extent that it could have done [paragraph 89].

The company owning the portal argued that the injured person could have brought a claim against the actual authors of the

comments, but the court chose to decide that it was very difficult for an individual to establish the identity of the persons to be sued; it would be disproportionate to place the task of identifying them on the injured person and would not guarantee proper protection of the person's rights. It was mentioned that it was the portal's choice to allow comments by unregistered users, and it must be considered that by doing so the portal had assumed a certain responsibility for these comments [paragraph 91].

The court did not undermine the importance of not disclosing identity while exercising freedom of expression on the Internet, but it pointed out that the spread of information on the Internet and the possibility, which in some cases is a danger, that information once made public will keep circulating forever, calls for caution. The specifics of disclosing information on the Internet and the substantial amount of information there makes detecting defamatory statements and their removal a difficult task. This is true for an operator of an Internet news portal, but it is even more true for the injured person who would have even fewer resources for monitoring the Internet [paragraph 92].

The ECtHR found that the portal's freedom of expression had not been violated. This judgment was based on the above elements (the insulting and threatening nature of comments, the fact that publishing news and comments was part of the professional and commercial activity of the portal, the insufficient measures aimed at preventing damage to third parties and ensuring the real possibility to hold the authors of comments liable) and also on the fact that the sanction imposed on the portal in favor of the injured person (320 euro) was a moderate one.

Relating all of this to the current situation in Moldova, we can anticipate a similar outcome: We, too, have portals with large (or small) audiences that happen to publish injurious comments from authors covered by pseudonyms that are impossible to monitor and that are removed under certain conditions but not entirely and not immediately.

Liability for injurious information is not limited to the author in Moldova either; here it also extends to spreaders—a category that includes portals as publishing platforms similar to newspapers and television. Both the Civil Code and the Law on Freedom of Expression are generally applicable, so they also refer to expression on the Internet. If injured persons comply with the terms and procedures prescribed by the Law on Freedom of Expression, then like the situation in Estonia, they are likely to win a case in court, especially now when we have this precedent to apply in similar situations.

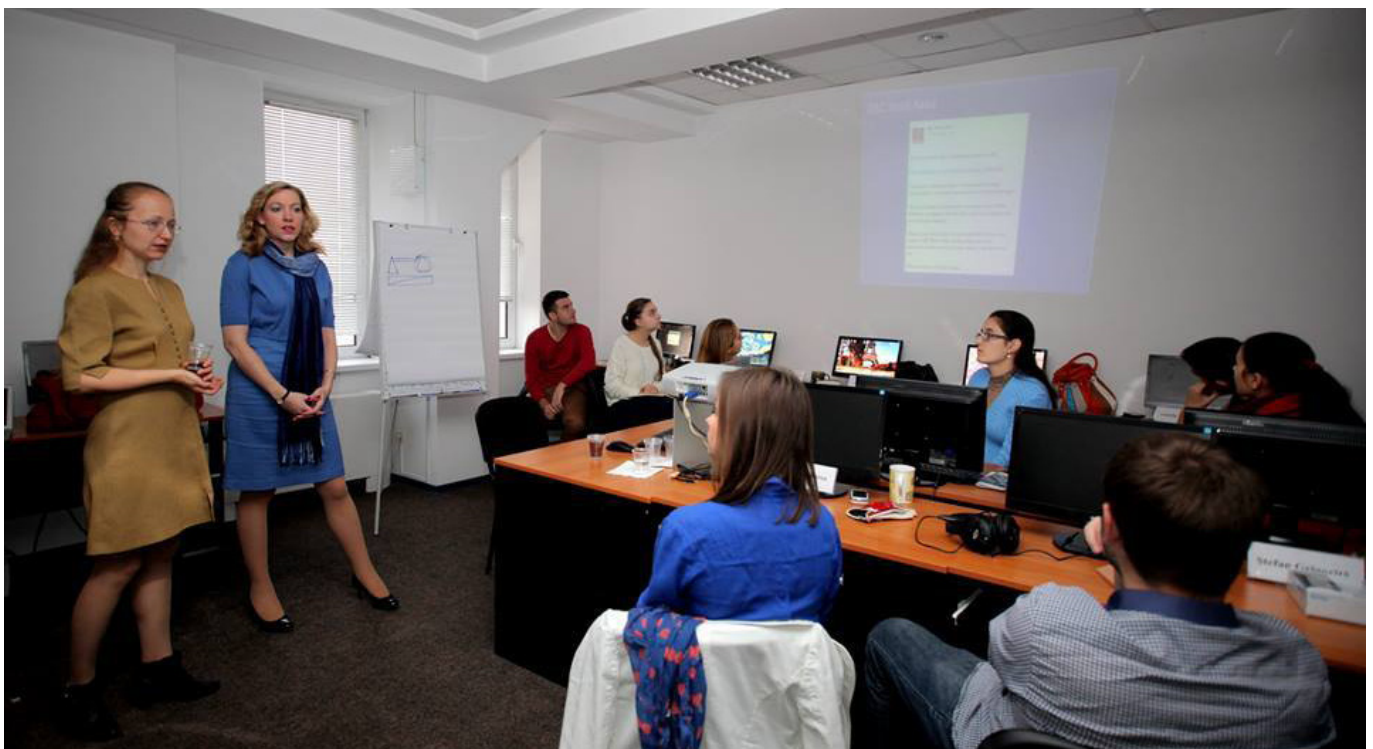
At the same time, we cannot ignore the cautious and careful language of the court which seems aware of the fact that it has

entered a new field and does not really know where its decisions might lead. By stressing the elements that determined this decision, the ECtHR made it clear that other elements could determine other decisions. For this reason in this judgment, the concrete situation in Estonia seems to be an essential moment; we do not really know if the judgment would be essentially the same if some background elements had been different. Thus, we do not know how the judgment would change if it had been a less commercial website with fewer visitors or if the problem concerned an article that would not normally generate aggressive comments. From the perspective of existing case

law, it is somewhat clearer that the ECtHR would not tolerate disproportionate compensation that would have a discouraging effect on the portal.

The essential message is, however, clear, and it calls for immediate action. Those who control the content of a website should do so effectively and not admit violations including from third parties. It means that practically speaking, persons interested in a large number of comments should assess their moderating resources, identify efficient methods for the immediate removal of abusive comments or consciously take the risk.

Olivia PIRTAC



Elizabeth Linder, Facebook's Politics and Government Specialist for the Europe, Middle East and Africa regions, answers to the questions of Chisinau School of Advanced Journalism (CSAJ) students on the company's policy regarding users' comments in relation with information requests from authorities. Chisinau, Octombrie 2013

It is not easy to keep a regional newspaper going, but it is possible

How did it begin?

July 2007. I was in Warsaw with a group of colleagues from local Moldovan newspapers. At some point I said, acting on an impulse, that I would leave the newspaper I was working for at the time and make my own publication. There were things I was dissatisfied with, I was no longer comfortable in my job, I wanted something different, but I hadn't thought seriously before that, not for a single moment, about leaving *and* starting my own business.

The majority of fellow journalists were skeptical about a new beginning. "Think well. You definitely know nothing about starting from scratch or editing a newspaper. Moreover, you are turning 50 soon. Don't you think it is a little late?" That is what I heard from Tudor Iascenco, director of the *Cuvantul* newspaper in Rezina, a person with good intentions and a professional.

I thought hard about it. Sometime later I did understand that at that point I really knew nothing about making a newspaper although I had a background in journalism education and an over 20 years experience in the field. As a result, I rejected the idea. I returned to Ungheni planning my future at the same publication together with the same colleagues, but it wasn't meant to be. On 22 August 2007 I resigned spontaneously at a moment when I wasn't ready morally or financially for a new beginning. A week later I told myself, "I will make a new newspaper, but later."

Why a newspaper?

First, because I know nothing else to do. Second, because I felt that I have much more to say in this field. Third, because I wanted to prove to myself and to those who did not believe in me that I could do it. So I took steps along a road, not knowing at that moment where it would take me or that it would have lots of potholes.

Step I: For a week, I studied everything there was to know about starting a business, and then I went to the State Registration Chamber. I decided that it would be better to include newspaper editing into the list of activities of a limited liability company than to register a newspaper. Why? Because it provides a larger field for activity and at a certain point one can do anything, including organizing sports competitions or trade. Two weeks later, I had the necessary documents: the articles of incorporation for the limited liability company SC Miraza SRL,



Lucia Bacalu-Jardan, director of Expresul weekly

Source: personal archive

the registration certificate and an extract from the State Register of Legal Persons.

Step II: I had to find people to work with, ones that would be responsible and know what to do and how to do it. Despite the gloomiest predictions ("Whoever heard of finding young and talented specialists in the backwoods? And whoever heard of such people, if you do find them, accepting volunteering?"), soon thereafter I had a team of five: editors Ghenadie Nicu, member of the Writers' Union of Moldova and Romania, holder of numerous awards, and Cristian Jardan, then student at the School of Advanced Journalism; editorial secretary Vitalie Harea with over 10 years of experience in the field; senior accountant Angela Covaliov and myself. The average age of the newly formed team was 37.

It is important to mention that absolutely all of us volunteered for six months. There were no salaries, no fees or compensation, but we began with enthusiasm and beautiful dreams.

Step III: Establish the newspaper's concept and design. In fact we started with the title. Ideas were numerous. I insisted on *Expresul* from the very start. I liked the way it sounded, I knew that there was a network of *Expresul* newspapers in Romania and I knew about *L'Espresso*, an important weekly publication

in Italy. In addition, the meaning of the word “express” [editor’s note: definitely and explicitly stated; one that ensures rapid movement or service] is more than appropriate for a newspaper.

There were other suggestions: *Opinia* [Romanian for “opinion”], *Obiectiv* [Romanian for “target” or “lens”] and *Miraza*. “Miraza” according to the explanatory dictionary of the Romanian language means “mirror.” Ghenadie Nicu said that a periodical should be in fact a mirror of society. He also reminded us of the famous British daily *The Mirror*. On the other hand, the word “miraza” is absolutely unknown in our country, and we thought that it would be very difficult for readers to remember. Eventually, we decided to name the newspaper *Expresul de Ungheni* [*Express in Ungheni*].

As for the concept, we immediately established without much talking that it would be a weekly providing information, analysis and opinion. We would necessarily have a page for culture and one for sports because we wanted to prove that outside of Chisinau, culture and sports also play an important role in people’s lives so we would write about them.

Design: Vitalie Harea, a good specialist in the field, suggested four or five options. We analyzed each of them and made modification after modification before we chose the final version. All our meetings and discussions were held in a building in downtown Ungheni; we needed our own place.

Step IV: Finding the place. This task was easy. Ungheni had had a business incubator for several years where those who wanted to start a business were provided with the necessary conditions at an acceptable price. So we went there. We were immediately offered an office with four chairs, a table, a bookcase, a telephone number and Internet access. We needed equipment. We borrowed a simple and cheap camera, and a businessman offered us two old computers. We also chose an old table that we had seen discarded in a garage.

Step V: The work itself. We decided that the first issue of *Expresul de Ungheni* was to appear on 1 November 2007. It was a significant date for us – it contained three number “1s” and we wanted to be the first in everything: efficiency, quality, impartiality.

The first issue of the newspaper appeared on 1 November 2007 with a circulation of 1,000 copies which we distributed for free in all institutions in Ungheni, in villages, and in companies. The second, third and fourth issues followed. All of them were distributed for free because we needed the publicity.

The money for printing the newspaper—nearly 5,000 lei—we took from our own pockets. Meanwhile, our friends from NGOs and businesses proposed several announcements and articles that they paid for, although they were aware of the fact that they would have little impact. Thus we obtained another 2,000 lei, an amount that we found huge at the time. The first money we earned!

Step VI: We decided to announce subscriptions to *Expresul de Ungheni* and go from village to village meeting people to promote the newspaper. Initially, we went to the post office. Here real craziness began. From the very start we were “advised” to be careful with the topics we covered because there was a chance the newspaper would not to be distributed. Attention! It was 2007.

Then we were to sign a contract with the Ungheni Post Office, and the process was slowed down to the maximum. The “guilty” one was in fact in Chisinau. We were refused the subscription index for the reason that the name of the publication wasn’t mentioned in the articles of incorporation or the registration certificate. In vain did we try to prove that the articles of incorporation clearly said “editing newspapers and magazines,” which meant that we could edit a newspaper, and that newspaper had to receive a subscription index from Posta Moldovei [state enterprise Post of Moldova].

We addressed the State Registration Chamber and made phone calls to Chisinau to the legal department of Posta Moldovei. We were not given clear advice. The problem was that up to that moment, the great majority of periodicals in Moldova was registered with the Ministry of Justice or obtained the status of limited liability company at the State Registration Chamber in the format of PP “name of publication” SRL. We had documents for SC Miraza SRL, but we requested a subscription index for the newspaper *Expresul de Ungheni*. Some confusion, ladies and gentlemen!

Lawyers at Posta Moldovei found a single solution: to send us to the Licensing Chamber. We went, puzzling the institution’s employees. Whoever heard that you needed a license to edit a periodical publication? Again we telephoned the lawyers of Posta Moldovei who suggested that we address the Ministry of Justice. We were sent from one official to another and were eventually told that the person who could have given us the solution was on vacation.

We started all over again. We again went to the State Registration Chamber and asked them to include in the articles of incorporation the words *Expresul de Ungheni* in quotation marks, after the expression “editing newspapers and magazines.”

Shortly thereafter, the newspaper was granted the subscription index.

Step VII: Promotion and subscription. December 2007 was a fiery month for us. We organized dozens of meetings in schools, kindergartens, health centers and companies to talk to people about the new newspaper. We traveled around the district, and success was close. After four issues, the circulation on 1 January 2008 was 1,850 copies which was an unexpectedly good result, especially when the circulation of some local newspapers in Moldova at the time varied between 600 and 1,200 copies.

Then, months of hard work followed with no salary for any of us. By the end of February we started receiving phone calls at the office. People were asking for help and inviting us to events. At that time we also obtained the first serious contract. Public association Faclia asked us to be their partners in a project and edit a supplement for youth. Other requests and more partnerships followed. Bit by bit, advertising was coming in.

In the autumn of 2008, we managed to obtain the first grant from the fund that the Ungheni District Council established for supporting small and medium-sized enterprises. We received 22,000 lei and thus could get some of the necessary equipment for the editorial office: a camera, two computers and a voice recorder. On 1 October 2008, the website *Expresul.com* was launched which helped us gain even more popularity. We started paying our first salaries of 380 lei.

But by the end of 2008, however, we had a circulation practically twice as small as our initial circulation. What had happened? In addition to the fact that we had failed to find a common language with all post offices in the country, we understood that some of our readers were not interested in the content. People, especially in villages, don't want interviews with distinguished personalities (and we published an exclusive interview every week in *Expresul de Ungheni* with artists, writers, scientists). They were also not interested in sports or in serious analyses of events. Readers preferred much more topical issues, including the horoscope, TV guide, sometimes gossip and, if possible, condolences, as many as possible. It is what readers told us themselves.

In part, we complied. We abandoned the culture and sports pages, and with that, Ghenadie Nicu and Cristian Jardan who were practically volunteers withdrew from the newspaper. We included the horoscope and the TV guide and decided to focus on social issues, success stories and discovering new people and talking about their achievements and problems. It was a good decision, and *Expresul de Ungheni* was becoming increasingly known and appreciated.

On 28 October 2010, we were accepted into the Association of Independent Press (AIP) of Moldova, which made us more confident in what we did. In 2011 we decided to extend and transform *Expresul de Ungheni* into *Expresul (in Ungheni, Nisporeni and Calarasi)*. Our ideas could be realized due to a grant offered by the East European Foundation as part of a press support program. In addition to the fact that we could purchase all the equipment we needed, we branched out into the towns of Nisporeni and Calarasi. Since September 2012, the official title of the newspaper has been *Expresul*.

During this period, the circulation varied between 2,300 and 3,400 copies. The number of website visitors grew considerably: over the past three years we gathered over half a million single visitors despite covering only local events.

Now six years later, we can say without hesitation that we did it. *Expresul* appears on a weekly basis on eight A3 pages. Over this period, we managed to obtain 12 awards, including Debut of Year 2007 from the Independent Journalism Center, Chisinau Press Club and Press Freedom Committee; 1st and 2nd prizes at the national competition on articles on the topic of collaboration between Moldova and Romania in the category twin towns and Euro-regions awarded by the AIP in 2007 and 2008; 1st prize for best photography from the AIP in 2010 and 2012; 1st prize for promoting non-private persons' rights to freedom awarded by the Institute for Criminal Reforms in 2012 and 1st prize for best web page awarded by the AIP in 2012.

Expresul was a partner in the implementation of numerous projects and produced the photo album *Ungheni in Pictures* [Romanian – *Orasul Ungheni in imagini*] and a book, *Nisporeni Forests* [Romanian – *Paduri nisporenene*].

What do we want in the future?

To keep a printed newspaper afloat, desirable and appreciated, one needs practically daily efforts, constant modernization and innovation, a team of professionals, advanced equipment, enthusiasm, new ideas and a great deal of energy. We managed to achieve what we intended to. Now we want to increase the number of pages, which will help us to do the following:

- create special pages with news from every district with the titles of *Expresul de Ungheni*, *Expresul de Calarasi*, and *Expresul de Nisporeni*;
- have a page of opinion and analysis;
- use more large and high quality photos to make the newspaper more attractive.

We will also continue developing *Expresul.com* because one never knows what the future holds for us. I believe that we must be ready for transition to the electronic version of the newspaper

as the situation suggests that preconditions for that might exist and that moment might come in a relatively short time. There is also the possibility for many years to pass until that moment, so we never stop working on always improving the quality of the newspaper. We will also try producing videos in the region for the website, implementing new projects, establishing new partnerships and extending types of activity.

In lieu of a conclusion

It isn't easy to have a regional newspaper, but it is possible. First, it is because regional and local publications have a certain

specificity and implicitly loyal readers. Second, it is not the place that makes the person, but vice versa: the person makes the place. There are lots of important events and interesting people outside of Chisinau that deserve to be written and talked about. People in the regions need newspapers where they can find local information, especially when national mass media focus mainly on the events in Chisinau. Thus, the brightest future is reserved for local newspapers while the nationals will gradually be "swallowed" by television and the Internet unless they come up with innovations.

Lucia BACALU-JARDAN

The long road of transition to digital television in Moldova

Moldova has the obligation to stop terrestrial analog television broadcasting and to transition to terrestrial digital television by 17 June 2015. Our country has undertaken to do so together with 103 other countries. One of the goals is to avoid television interference that could occur if neighboring countries transition to digital television and Moldova maintains analog television. The regional agreement on planning a digital terrestrial broadcasting service that Moldova signed at the Geneva Conference in 2006 was ratified by Parliament in 2008.

The Ministry of Information Technology and Communications (MITC) developed a program in this regard that was finalized early this year; however, this essential document for transition to digital television is still under examination by the government where it has been awaiting approval for months. Meanwhile, the deadline is fast approaching, and authorities are slow in making decisive steps to implement the new system, modernize legislation, and inform the public about the upcoming changes. Moreover, some Members of Parliament are saying that the deadline for stopping analog broadcasting cannot be met because Moldova will not be ready in time.

We tried to find out the technical and legislative implications of digitalization, the factors restraining the process and its impact on the country's broadcasters in discussions with Chiril Lucinschi, Chairman of the Parliamentary Committee for Mass Media; Vice Minister Dumitru Parfentiev of MITC; Ion Terguta, Director of TV Station MIR in Moldova and Victor Gotisan, media researcher and co-author of the report "Mapping Digital Media: Moldova."

The transition to terrestrial digital broadcasting involves a change in technology that will lead to the modernization of television. Theoretically, after 17 June 2015, no TV operator will be able to broadcast in analog format. By then, the standard DVB-T2 (digital video broadcasting—terrestrial) should be functional, and it should allow for the creation of a "multiplex" on a single frequency—a sub-channel that can transmit up to 15 TV channels with superior images and sound.

The new system is supposed to provide additional services such as data transfer, TV-mail (email through television), and teletext. The TV signal will be received by means of devices called digital converters that can be connected to any TV set; some models have such receiving devices built in.

This transition should be accompanied by a series of legislative changes, public information campaigns and campaigns to provide converters to persons without the financial means to acquire them. The current legislation contains no regulations on digital television broadcasting or the necessary terminology. The program developed by the MITC includes such measures, but they cannot be applied due to delayed government approval.

"It is planned to create three digital television networks (multiplexes) with national coverage and up to 21 regional multiplexes. Thus, when licenses are issued and three multiplexes are created, up to 45 TV programs will be available for viewing," said Vice Minister Parfentiev. There is, however, doubt as to the efficiency of this system, and some officials suggest going digital in a different way.

Terrestrial, satellite, or fiber optic digitalization: which to choose?

Currently, the transition program is being examined by the government, and MITC representatives believe that it will soon be approved. Chairman Lucinschi is, however, more skeptical regarding the efficiency of terrestrial digitalization. "I see no sense in implementing the digital system of multiplexes that is being proposed and discussed and that the ministry is trying to promote, because this system is very expensive and does not reflect either reality or our perspective."

Mr. Lucinschi believes that the system of multiplexes is outdated, and he would prefer developing television by means of satellite or fiber optic networks (Internet). He also said that since a single multiplex costs 4 million euros and the state has undertaken to create only the first multiplex, the administrators of the other multiplexes will find it very difficult to recover their investment, and broadcasters will be unable to afford entering these networks.

He drew a parallel with 3G and 4G technologies, insisting that it is preferable for Moldova to opt for the newest technology. "I can give you the example of the 3G system. A large number of operators invested in 3G. It is a good system, but then 4G came along. Why doesn't 4G develop in Moldova? Because operators invested lots of money into 3G and their money hasn't been recovered yet. They are waiting for a return on their investment in 3G and only then will they bring in 4G. Meanwhile, those who did not invest in 3G have the possibility to invest directly in 4G, and thus they will profit," Chairman Lucinschi explained.

Chairman Lucinschi suggested satellite broadcasting since the necessary investment would be smaller. Another alternative, he says, is Internet television through fiber optic cables. He added that the penetration of cable operators in the country is 80%, so this technology could have greater coverage. Also, Mr. Lucinschi said that Moldova would be unable to meet the 2015 deadline, but that it is not an ultimatum as other countries also delayed the digitalization of their television networks.

However, media researcher Victor Gotisan warned that the situation could become unpleasant if the deadline is not met. "It is regrettable that some officials are saying loud and clear that nothing will happen after June 2015, that the EU and the neighboring countries will accept, understand and extend the term, as they did before. I say that we shouldn't believe ourselves to be the center of the universe," he said.

In his turn, Vice Minister Parfentiev said that he welcomes the implementation of various technologies on the market and believes that their use does not exclude the launch of terrestrial digital television. Mr. Parfentiev admitted that the payment for a satellite channel can be smaller than the cost of distributing signals through terrestrial digital television, but it also has drawbacks such as dependence on weather conditions and the need for additional equipment, antennas, decoders and services requiring a subscription fee paid according to contracts with providers.

As for the fiber optic networks, they could be available to a limited number of people since they need connections for each household or each village to the Internet. "In this case, terrestrial digital television will be provided for free and it is part of the citizens' constitutional right of access to information. Accordingly, it could ensure high quality viewing from anywhere in Moldova. At the same time, we comply with the international treaties signed by Moldova," he added.

He also drew attention to digitalization from the perspective of viability, specifying that instead of the 15 frequencies that had been used so far, only one would be used in the future.

The frequencies thus freed, the so-called "digital dividend," will be put up for tender and sold to mobile telephony operators which will bring benefits to the national economy, said Vice Minister Parfentiev. They will be used for mobile broadband Internet services, especially in rural areas. At the same time, multiplex operators could request the Broadcasting Coordinating Council (BCC) to allow additional encrypted services (added value content and other multimedia services) on the vacant multiplex positions by introducing the system of subscription cards.

Ion Terguta from TV network MIR in Moldova expressed his wariness of creating more than one national multiplex. "This multiplex costs about 50 million lei. What television stations could invest such a sum? Some of them are even unable to pay salaries to their employees, and investing that much is practically impossible. There will simply be no one," he said.

Legislative changes and technical procedures

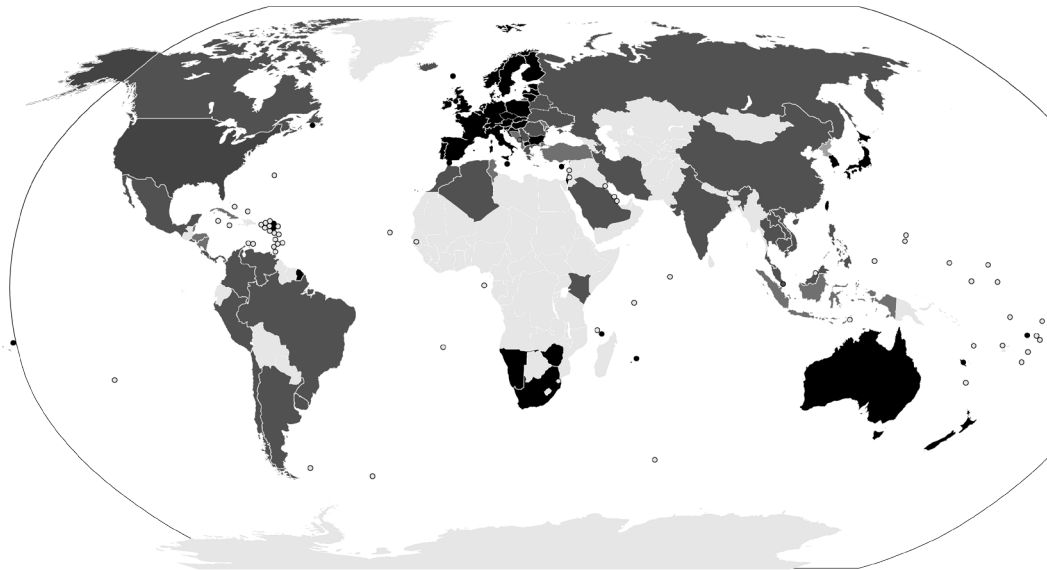
Victor Pulbere, the head of the Control and Digitalization Department of the BCC, told Media Azi that Moldova should speed up transition to digital television as the Baltic countries and Ukraine have already transitioned to this system. "The broadcasting code needs to be amended, since its current version does not include the notion of digital television," he added.

Also, media researcher Victor Gotisan emphasized the need to adopt a relevant legal framework. "I believe that our government got bogged down in the technical aspects of the process. They talk about multiplexes, converter boxes and fiber optics, but without a legal framework and information campaign, none of the above means anything. It is undeniable that they are important, but not less important than developing the legal framework in the field or allowing the public to understand the meaning of digitalization," he explained.

Vice Minister Parfentiev said that the program developed by the MITC specialists included modifying the code and the procedure for issuing licenses for multiplexes. Thus, the National Regulatory Agency for Electronic Communications and Information Technology (NRAECIT) will hold a tender to identify the receiver of a multiplex that will be able to set the tariffs for using a slot but only after coordinating with the NRAECIT in order to avoid price gouging due to a lack of competition.

The BCC would still be responsible for issuing licenses for multiplex positions and could decide on the participants in the first national multiplex. Vice Minister Parfentiev pointed out that the state enterprise Radiocomunicatii will not enjoy preferential treatment, but it can participate in the tender held by the NRAECIT in order to form the first multiplex together with other contenders.

He specified that multiplex producers will be in charge only of creating and maintaining the network, of interconnecting with televisions, and of transmitting the signal from the studio to the receiver; they will not have the right to decide on admission into the multiplex. However, Mr. Gotisan pointed out that Radiocomunicatii holds sole control over all networks in the country.



Legend:

- Transition completed, all analog signals terminated
- Transition completed for full power stations, not yet completed for low power stations
- Transition in progress, broadcasting both analog and digital signals
- Transition not yet started, broadcasting analog signals only
- Does not intend to transition, broadcasting analog signals only
- No information available

Photo source: Wikimedia Commons

Earlier, Chairman Lucinschi said he was worried about the potential impact of digitalization on the advertising market as well as about an eventual monopoly of some private companies. He said that as long as there are media outlets with a budget deficit of 70–80%, it is very probable that they would be obtaining money to enter the multiplex from advertising which might mean more propaganda in broadcasting.

He added that he would not want the state to lose its technical monopoly over multiplexes. “I am surprised, as it is impossible to have 15 channels, it is impossible to not control the participants’ affiliation. And I wouldn’t want to wake up one good or bad morning only to learn that the technical monopoly belongs to a private group.”

As for regional broadcasters, Vice Minister Parfentiev said that discussions will be held with them about creating regional multiplexes. The program of transition to terrestrial digital television recommends that local broadcasters create associations in order to share a multiplex, since for them the investment required to enter national multiplexes is too large. According to MITC estimates, the creation of a regional multiplex will require investing about 2–2.5 million lei, depending on landscape complexity.

Information campaigns and equipping the population with converters

The majority of the population has not been informed about all the aspects related to the transition to terrestrial digital television. Vice Minister Parfentiev said that it is premature to start promoting the transition since it has not yet been adopted by the government. He said that messages and mass information programs are being developed at the moment. On

the other hand, Chairman Lucinschi said that neither Members of Parliament nor the government or citizens actually know whether digitalization is going to happen or not, so that one cannot invest in any information campaigns. “Overnight, TV sets might stop showing anything,” he said.

Mr. Gotisan said that officials had been discussing such campaigns for two years and the discussions ended with no results. “It was all discussed two years ago, and we are still where we were before 2010. Officials say that there is no money for these campaigns, but I suspect that might not be candid as already in 2012 some international organizations offered financial support and advice, but the institutions responsible for this process said they did not need them and that the strategy stipulated money to be provided for that. Everyone knows what followed: nothing.”

The MITC program requires equipping socially vulnerable categories with digital converter boxes for free. Mr. Lucinschi claimed that ministry representatives had told him that it involved 120,000 households, but that he believed it to be too small a number. “I know that out of one million households, more than half will be unable to buy them [converter boxes],” he estimated. According to the MITC, criteria for identifying beneficiaries will be coordinated with the Ministry of Labor and Social Protection.

The ministry is currently developing a guide on parameters for converter boxes and digital reception modules for TV sets that are recommended for receiving terrestrial digital television in Moldova. According to experts, global manufacturers offer a broad range of converter boxes with prices ranging between \$20 and \$200 US.

Preparations continue, results fail to appear

The year 2015 is not far ahead, and Moldova still has a lot to do before a digital television system is implemented. In addition to the digitalization commitments that Moldova assumed with international partners, our country risks even more from the technical perspective that analog frequencies will be simply closed down in 2015 in order to avoid interference produced by the fact that Romania and Ukraine will have transitioned to digital television.

Meanwhile, no program has been adopted to enable the implementation of the measures necessary to advance digitalization, the broadcasting code does not prescribe new terms and conditions for issuing broadcasting licenses and there are no information campaigns or a coherent vision at top levels. Moreover, it is unknown whether there will be many TV stations that could afford entering multiplexes and paying rental fees. Still, television stations are not pressuring public institutions to speed up and clarify these problems.

“Whether we want it or not, we must try to solve this problem before June 2015 when the deadline expires, otherwise we risk having all the television broadcasts in our country jammed. I can’t understand, though, why our broadcasting outlets are so relaxed when they will be the first to be affected. I believe that they must somehow become involved too, or they risk a lot,” Mr. Gotisan emphasized. He specified that all the misunderstandings among public institutions and the delay in applying changes to television could also be caused by financial or political interests.

With more questions than answers and with the transition still at the level of a discussion with an uncertain result, we are quickly nearing the closure of analog frequencies. What TV sets in Moldova will be showing in the future is as yet unknown.

Vasile GANCEV

The Transnistrian press in 2013: attack on the freedom of mass media

During the second half of 2013, the freedom of the press in the Transnistrian region was affected by the closure of some Internet forums that published articles with varying degrees of reliability and validity and that were aimed at strongly criticizing the then current head of the unrecognized republic, Yevgheny Shevchuk.

These information platforms (Pridnestrovsky sotsial'ny forum [Transnistrian social forum], Forum Dnestra [Forum of the Dniester], etc.) are not press in the traditional sense of the word; however, given the rapid spread of information technology and communications, these Internet forums have become an integral part of information exchange and can themselves either provide news or respond promptly to it.

From this perspective, freedom of expression in the Transnistrian region received a severe blow. Internet users say that the above websites on the left bank are either completely unavailable or available only through "anonymizers." For Shevchuk's critics, the closure of the forums became a new pretext for attacks as opponents of the then current leader considered the arguments of official Tiraspol that these websites hosted exclusively allegations, rumors and gossip that denigrated the so-called authorities inconclusive.

On the other hand, according to people close to Mr Shevchuk, Internet forums are not covered by current local laws on mass media that state that mass media includes editorial offices as long as they have addresses, names and other information about founders, editors, etc. As the closed websites had no founders, editors or "live" mail addresses, they cannot be considered mass media; therefore, their closure cannot serve as a basis for accusations of violations of freedom of expression.

Mass media in the Transnistrian region continue working as usual. There are two TV channels: Pervy Pridnestrovsky [First Transnistrian] and Televidenie svobodnogo vybora [Television of free choice]. State radio and the private radio station Inter FM still cover the entire region. Official newspapers *Pridnestrovie* [Transnistria], *Adevarul Nistrean* [Transnistrian Truth] and *Gomin* appear in three languages and are the print media outlets of the left bank unrecognized authorities.

The information agency Novosti Pridnestrovia [News of Transnistria] (successor of the Olvia-press agency) is still the main mouthpiece of the region on the Internet opposed by some resources that have existed for quite a long time: Tiras.ru and

Dniester.ru. Another news website that has emerged recently is Lentapmr.ru which is not official but generally follows the information policy of regional authorities.

An impressive event in the life of the region's mass media was the unexpected by many appointment of well-known Chisinau-based journalist Elena Pahomova, former head of the thematic program department of Publika TV channel, as Editor-in-Chief of TV station Pervy Pridnestrovski. On the one hand, it caused polar opposite responses. In Chisinau, Pahomova was criticized for "leaving for separatists," while Tiraspol was surprised by the arrival of a journalist "from a Romanian TV channel."

On the other hand, it remains unclear whether the appointment was determined more by political reasons (that in turn raise speculation about far-reaching backstage agreements between the authorities on the two banks) or by purely professional motives. Elena Pahomova herself laconically denied political motives. Tiraspol, however, is reluctant to comment on the appointment.

The very end of the year saw a milestone that meant bad news. At his press conference on 26 December, Yevgheny Shevchuk issued an unexpected warning to the Tiraspol office of the Russian news agency Novy Region [New Region].

The situation developed rapidly. "I worry about the labor rights of our journalists who reside in the Transnistrian region and work for Novy Region," Shevchuk said. His words contained a poorly concealed threat: "We will come for a visit and a rather persistent talk. Wait for us to come. Well, if I am busy and can't do it, the competent services will come to protect the labor rights of the region's citizens working in mass media."

On the following day the editorial office of Novy Region in the Transnistrian region was visited by a local representative of the prosecution service to check on compliance with local legislation. In theory, this check concerned all media outlets on the left bank, but subsequent events showed that Novy Region was the main target. The prosecution employee asked journalists about their working conditions, about their registration in the region and about the availability of a lease contract for the office of the news bureau.

This visit resulted in the closure of the Transnistrian regional office of the news agency. My colleagues in Tiraspol said that they were simply refused renewal of accreditation for 2014.

The journalists of Novy Region could do nothing else but officially say goodbye to their readers. Thus, the 2013 trend of closing online platforms was unexpectedly continued. The present regional authorities chose to undertake drastic measures that not even former head Igor Smirnov dared to take.

Due to the long holidays, no reaction of international intermediaries to these events has yet appeared, but I am sure that it will not contribute to any settlement. Moreover, Novy Region is a Russian agency; what the Moscow response will be is still unknown.

Ernest VARDANEAN



The young generation on the left bank of Dniester river is growing increasingly interested in developing their skills in creating and managing blogs. Over 70 pupils from the Transnistrian region took part in a series of trainings in blogging organized by IJC during September 2012 - April 2013. Tiraspol, April 2013

Politics, economy shape moldovan news media

Jan M. Larson is an associate professor at the Department of Communication and Journalism at the University of Wisconsin-Eau Claire in the USA. In the summer of 2013, she visited Moldova along with a group of her students and conducted several interviews with national media professionals. She subsequently analyzed the data she collected from the local and central press, including from the Independent Journalism Center (IJC), and wrote a piece on the media landscape in Moldova and its main challenges. These are her findings for Mass Media in Moldova magazine.

Vasile Botnaru began his journalism career when Moldova was still a Soviet Republic. It was a time filled more with propaganda than journalism, the veteran newsman recalls.

More than four decades and a monumental shift in the nation's political fortunes later, Botnaru, now Executive Editor of Radio Europa Libera (REL) in Moldova, waits for the Moldovan media to catch up to his vision of an independent and impartial press. It's possible, he knows, but it's complicated. "Our colleagues are so clever and perseverant," he says. "Unfortunately the problems can't be resolved through journalism."

Botnaru, his fellow journalists, politicians and the public agree that the Moldovan news media landscape is one of uncertainty and change. During in-depth interviews (by the author, ed.) over a three-year period, political newsmakers and journalists report that key challenges facing the pluralistic development of Moldovan news media include political manipulation and economic development. Despite a murky future, all express a determination that Moldova and its news media will build the foundation of a press worthy of the young democracy.

A new country

Once a Soviet Republic, the country gained independence in 1991, but Soviet-era media restrictions continued alongside Communist Party rule until the 2009 elections and subsequent citizen protests. Media law was revised in 2010 granting greater press freedom and independence. Ethics codes were updated, and more than 100 Moldovan media outlets signed on to the documents.

Political manipulation

While the nation's population now has greater access to news and information than ever before, there is universal concern that their voices lack transparency and independence from

powerful political and business interests both inside and outside Moldova. Former newsman turned politician Dumitru Diacov said the current Parliament is actively engaged in press issues.

"We want a free and independent press to not be associated with politics and for the press to be able to be in opposition," Diacov said this summer. "We can say that we do have a somewhat free press."

Indeed, recent international monitoring organizations have moved Moldova from the "not free" category to "somewhat free," and in November 2013, Moldova ranked first among six Eastern Partnership countries on a free press index. The other countries were Armenia, Azerbaijan, Belarus, Georgia and Ukraine.

Rankings aside, journalists often have published at their own peril. Founder and long-time editor of the nation's respected investigative newspaper *Ziarul de Garda*, Alina Radu has weathered a number of politically motivated storms. After being slapped with a defamation lawsuit in 2010, Radu spent the next several years waiting for the courts to decide whether her paper would be forced under by the weight of a 500,000 lei judgment. Such lawsuits are a regular occurrence in Moldovan media circles, and recently Mihai Poalelungi, Chair of the Supreme Court, declared that he would seek to promote re-criminalizing the offense.

Physical intimidation has been rare but not unheard of. Oleg Brega of Curaj TV said a university administrator attacked him during an interview he filmed about allegations of widespread corruption in university testing and admissions. Another former journalist, Ernest Vardanean, said he left journalism after being arrested and jailed by the so-called Transnistrian authorities because he wrote stories critical of the local separatist government.

If lawsuits and physical threats don't work, other more subtle forms of intimidation exist, journalists say. Marina Lita, a reporter for the Chisinau-based daily *Adevarul*, says she has not been approached with offers of money but knows it happens. "At the end of the month, the bills are coming and no one is asking about integrity."

But integrity is what journalists need most, says Ludmila Andronic, chair of the Moldovan Press Council. A journalist with more than a decade of experience as a reporter and editor

for both newspapers and magazines, Andronic said bribes are common. “Politicians pay for positive articles about themselves or negative articles about opponents,” she said.

Andronic joined the council to serve as an advocate for the public and to hold journalists accountable. The citizens and media practitioners who sit on the nine-member council monitor journalists and media outlets. Andronic advocates for industry self-regulation and says journalists need to resist proposals to sell their names and work for money. “Either you are working for the politician or you are doing journalism,” she said.

But as long as politicians are financing the media, journalists will follow, says Nadine Gogu, Director of the Independent Journalism Center (IJC). “Politicians are behind journalists,” Gogu said. “There is the perception that there is not much independent media.”

The IJC works with the nation’s journalists and media executives providing training workshops, monitoring the media and offering legal advice and assistance. In an effort to curb political influence and promote an independent media, the IJC is pushing for legislation that would make media ownership transparent. Knowing who owns the media, Gogu explained, could prevent politicians from hiding behind the media to push personal agendas.

Politician Diacov supports the IJC-backed legislation now languishing in parliamentary committee that would require transparency in media ownership. In addition, he wants to ban media ownership that is politically affiliated, but he understands that not all of his colleagues in Parliament share his press views. A democrat MP, Diacov nudged the blame for the slow movement toward greater press independence on his communist colleagues. “The news media should be the fourth power in Moldova – a mediator,” Diacov said. “Journalism should be a credible source of information and not be a political instrument.”

Chiril Lucinschi is chair of the parliamentary committee charged with reviewing the draft legislation on media ownership. While he, too, supports the legislation, getting other politicians to go along he says, “...is not so simple.” Lucinschi said any media ownership law also should require that media companies reveal their financial sources. “We want people to know who owns Moldovan media companies,” he said, noting that critics suspect Moldovan media is rife with partisanship because of ownership secrecy.

Still, both Lucinschi and Diacov say that the problem of political manipulation is not limited to the homefront. Manipulation

extends beyond borders, entangling politics and economics in a minefield fraught with implications for the future of Moldova’s news media.

A politicized economy

When the Soviet Union crumbled, Moldova lost the Soviet powerhouse economy and plummeted into economic decline. Only recently has Moldovan begun to recover. According to the 2013 Index of Economic Freedom, Moldova has an official unemployment rate of 6.7 percent. Other international organizations list the real unemployment rate as high as 40 percent.

Moldovans have long had to leave the country to find work to support families left behind. Per capita earnings are estimated at \$3,373 US. Monthly salaries are often around \$277 US, making Moldova one of the poorest countries in the region.

As both the East and West have realized the strategic importance of Moldova, financial and political maneuverings have intensified. Aid from nongovernment organizations and other entities has poured in from European nations and the United States (US). Russia also re-entered the fray and is a significant presence in the Moldovan political and commercial economy. While Europe and the West dangle offers of development aid and eventual European Union membership, Russia has at times resorted to outright threats.

Near the end of 2013, a Russian deputy prime minister made headlines across the globe when he issued not-so-veiled threats and publicly voiced hopes that Moldovans wouldn’t freeze in the coming winter. Moldova relies on Russian gas for its heat.

In recent months, the Russians also have banned Moldovan wine, one of its primary exports, and threatened to revoke work visas for the tens of thousands of Moldovans who rely on employment in Russia each year to feed their families. In the private sector, a Russian firm recently won the contract to operate the nation’s primary airport, Chisinau International, for the next 49 years.

The European Union continues to offer the hope of membership if Moldova continues on a path toward greater democracy that includes anticorruption measures and judicial reform. Anticipated visa-free travel between Moldova and the rest of Western Europe has the potential to make Moldovan workers less reliant on Russia. The US Ambassador to Moldova, William Moser, in an interview this fall with Radio Free Europe urged Moldova to continue its European integration agenda and called on Moldovans to exercise their political influence.

The hope, says the IJC's Nadine Gogu, is that European integration will further nudge Moldovan journalism toward greater independence.

Amid the political upheaval is the reality that Moldova is a poor country, and big media spells the potential for big profits. Politician Lucinschi estimates the broadcast industry alone is worth in excess of \$13 million euros annually and creates a situation ripe for political interference. "If we can solve this part in Moldova with financial resources," he said, "we can solve many problems."

One big problem according to Lucinschi is that Russian and Romanian media outlets flood the Moldovan airwaves resulting in a highly charged competitive environment. It leaves a "... small, uncomfortable space" for Moldovan media, he said.

And that small space attracts little in the way of advertising revenue. "Moldovan media doesn't know how to make money," said the press council's Andronic. "It's a problem especially for print media. It's a disaster."

But not just any advertising dollars will do. Andronic said the first post-Soviet decade of Moldovan media suffered from a lack of advertising because no one was familiar with using advertising to sell products. When companies began advertising products, media fortunes improved briefly, but as the political crisis hit and then deepened, businesses cut advertising. Subsequent electoral advertising from warring political factions provided some relief but also led to additional political influence.

Finding a financial model that assures industry stability but avoids over-reliance on political parties is key to building an independent and impartial press, agreed Liliana Vitu of the IJC (at the time of the writing of this article, but now spokesperson for Prime Minister Iurie Leanca). "A lot comes with economic independence," Vitu said, "...when you know you can pay your staff salaries...."

In order to level the playing field between Moldovan media and international news outlets, Lucinschi has set his sights on creating a new broadcast media platform on the Internet by 2015. The platform would be less costly to maintain and could improve journalism, he said, if the state is able to "...offer a better environment for media."

Still, only 53 percent of the Moldovan population has internet access, so much work is ahead to make online broadcast a viable alternative to turning to international TV for news and information.

Change, change and more change

Beyond building a better environment for Moldovan media, Lucinschi also wants Moldova to build a better journalist. That, he said, will take both support and a hands-off policy from politicians. Parliament needs to get out of the way and let journalists take responsibility for producing ethical and independent news. It would, he said, be the job of the Press Council and organizations like the IJC to hold journalists and news outlets accountable.

"My personal view is that it's important to offer these journalists a community," Lucinschi said. "The state must delegate these functions for sanctions to those self-regulatory bodies."

Until the political landscape changes, predicted REL editor Botnaru, real independence will prove elusive. "Even if a journalist has good intentions, it is difficult in Moldova to have good results," he said.

You can count on your fingers, he said, the number of politicians NOT educated in Soviet times, without roots in that time. It will take a critical mass of politicians with new views and values to assure Moldovans' access to an independent and impartial press, he added.

His is a view that resonates with his colleagues such as *Adevarul* reporter Lita. "Politicians just don't get that our role is to show to the public what they need, not what politicians need," said Lita.

As Moldovan journalism inches toward greater freedom, it seems that in the end, the future of an independent, impartial press in Moldova may not rest squarely on the shoulders of the journalists alone but also on those of the politicians. For that reason, journalists like the IJC's Vitu look to the 2015 elections as a key turning point in Moldovan media fortunes.

"If communists are back in power we will see suppression of the press," Vitu predicts. "The media environment is linked to the political environment," she concludes.

Jan M. LARSON

„Moldovan journalism is characterized by some kind of feudalism”

Doru Petruți is General Director of Marketing and Polling Institute IMAS Chisinau since 2004, when he arrived from the Bucharest branch. The first TV audience surveys were carried out in 2004 commissioned by the Independent Journalism Center (IJC) and were launched biannually during several years. Over the years and especially after 2008 IMAS managed to become one of the most popular TV audience survey companies in Moldova. Currently, IMAS elaborates market researches, social and political studies, audience surveys, and provides political and communication consulting, with more than 50.000 interviews and 200 focus groups so far in 2013.

To what extent do you think mass media reflect reality? How objective are they?

It all depends on what reality we are talking about. The political one? It is difficult for me to talk in such general concepts, and I cannot evaluate all mass media. It would be a strictly personal assessment, and not one based on a serious study. Overall, I believe that the situation has changed a lot since 2009, and sociological studies show how information processing patterns have changed. First, diversity is great. The Internet has been an amazing development. I have been looking at the impact that blogs and bloggers have on the political equation. Three or four years ago, their influence amounted to 2–3% while today it is 15%. The development has been extraordinary. These are very interesting social phenomena.

Now, if we are to speak about how correct and relevant journalists are, I don't even know what concept I could use to describe the performance of mass media. I believe that their performance should be looked at from the perspective of an analysis of a TV channel or media trust. Personally, I have no problems with the fact that a media trust encourages a political party or promotes some interests as long as it is known and we take the necessary measures. To me, what matters more is the quality of arguments, regardless of the perspective they come from. It is difficult for me to say. I would make a comparison with the situation in Romania before accession to the EU from 2005 to 2007 when in my opinion mass media were the freest. Later, they were also bought and turned into the property of magnates.

Now back to bloggers. Do you have an explanation for the growth of their influence?

It is first of all related to the increased penetration of computers and Internet into households, especially in rural areas which



have seen the greatest growth over the last four years. We have a country where the speed and quality of the Internet are much better than in other European countries where they pay as much as 100 euro for a subscription. Another explanation is the novelty of the bloggers' approach when compared to other mass media. Their finesse and the fact that they can say even such things as what napkin a politician used at a meeting or what sausage he ate are the things that catch attention. It is debatable, though, whether these bloggers are relevant, produce materials of high quality or are of any help.

The socio-political barometer launched on 20 November showed that mass media again took second place in terms of public trust.

Yes, over 50%. Only that is a cumulative, general percentage. No media trust or television channel or publication can get 50% alone. Media performance has been assessed overall, and if we are to talk about a channel or a newspaper, the things are very different and the percentages are much smaller.

And why would people have so much trust in mass media?

The *WE* and *THEY* political camps have been created. People

have the impression that only journalists can still come to their defense. The media are somehow playing the role of society's guardians. Journalists show people what the real situation looks like and try to protect them. People identify themselves and agree with the actions of mass media, but—pay attention!—generally and from a global perspective. It doesn't mean that there are people who trust all television stations or all newspapers.

Which influence is greater: society over mass media or vice versa?

I believe that influence has no single direction, but the influence of mass media is much greater than the feedback from the other side. So far, television has had a 70% influence and an extraordinary impact on society because people still think that reality is what they see on TV which is actually wrong.

Is this percentage valid for all of Moldova?

There are differences, but they are marked by whether people live in urban or rural areas. The information processing pattern also depends a lot on the number of sources available to you. If you have a TV channel that has quite a poor signal, you might also have a radio. But if you have 120 TV channels and the Internet and you are growing up in an environment where information circulates a lot, things change.

What kinds of programs do Moldovans prefer watching?

It is difficult to say on a general level. Preferences depend on age, sex and occupation. The women who stay at home prefer soap operas and TV shows. The youth prefer music, films and entertainment. People over 45 look for entertainment with reminiscences, big shows of this kind from Russia. Preferences also depend on language since language is the main predictor of media consumption. If you speak Russian, your attention is definitely directed to the channels where you find a lot of Russian-language content.

Could you tell us how Moldovan media covered European topics, especially the summit in Vilnius since we are close to this event?

[Editor's note: He took time to think.] Quite a lot, but only for several weeks. In my opinion, these things should have been done back in 2010 and 2011 as these are the topics of the campaign with which the forces of the right managed to win the elections. They should have started back then sending out as much information as possible about what the European area means, what are its values, what would be the next steps, etc. Now there is time only to discuss the association agreement which doesn't mean accession to the EU. It is an agreement, and it involves certain obligations. These are some commitments that Moldova is assuming, but there is a long way from that to accession.

The IMAS Barometer also indicates the citizens' options in terms of their preference for Europe or for the Customs Union, and the differences there are very small.

It is a balance, but the segment of those who want both ways has grown. It says a lot about a lack of coherence and information about these issues. Don't think that if people know little about the "union that does not exist," the one in the East, then they know more about the EU. Contacts with Europe are few both at the level of culture and travel. People know, as a principle, that people there live better and have bigger salaries. But how did they reach this conclusion? Why is it necessary to get there? What do you have to do to reach a certain standard of living? You don't really see these things discussed.

But is Moldovan press "European"?

My opinion is that of a sociologist who is following the media. It also depends on what you compare it with. I watch TV5 Monde a lot. If I were to compare it with them, then we might be not quite in the Middle Ages but still with a sort of feudalism in journalism. I don't see very serious analyses in Moldovan mass media. I feel that they are often shallow and very much influenced by the employer. I have been following the journey or the writings of some famous journalists in Moldova who used to work for a certain media trust, and I am very glad for those who left it because they finally returned to their natural way of writing and thinking so that it actually has content.

Are employers the only ones responsible for the state of journalism in Moldova?

I believe that it is also connected with poverty. It is a small market, and you cannot work in a hundred places. You cannot be hired by a hundred employers, because you can count them on the fingers of one hand. The offer is not large. Then they [journalists] must comply with some requirements that they might not like. And I believe that poverty makes them do so. I am sorry that some of them sell out for very little money, but everyone chooses his/her own way.

What might the solution be?

Mass media are only a cogwheel in this society. Mass media are being put into action by other cogwheels. This mechanism is valid not only for the measurement industry or only for the economy or only for mass media. These things are adjusted from above when there is a correct projection of the political factor. I believe that things naturally fall into place if there is a political class with a certain will that does things to implement the promises made during the election campaign. If the political class does something different or sets goals other than public welfare, it also transforms mass media, justice and other institutions. It transforms us as individuals.

Vasile GANCEV

„Telling true stories: a nonfiction writers’ guide from the Nieman Foundation at Harvard University” edited by Mark Kramer and Wendy Call

For centuries, journalists and nonfiction writers have been borrowing tools of novelists to present real situations in a more personal manner, closer to readers and for their better understanding. They build characters, place them into settings and scenes and give them dialogue.

This approach to real stories while giving charm, color and depth to reality has always been more susceptible to subjectivity and even to invention for the sake of art. In ‘60s America when the great Tom Wolfe, Truman Capote and Gay Talese were christening this form of journalism—“new journalism” or “literary journalism”—and made it world famous, rules and limits were much more elastic.

Over time, with the increase of controversies arising from the publication of not quite true stories and establishing more solid ethical standards, things for journalists and writers have changed.

Readers want to know how they research, what proof they can bring to support their arguments, and how much of what they write about actually happened. The question of today’s practitioners is whether journalism and art can combine without limiting each other or whether ethical literary journalism is just a utopia.

The collection *Telling True Stories: A Nonfiction Writers’ Guide from the Nieman Foundation at Harvard University* launched in 2007 is an answer to all kinds of possible challenges and questions that journalists and writers in the field might have.

The book is constructed as a guide with short essays written by over 50 respected American journalists who are influential in this field, most of them Pulitzer Prize winners: Tom Wolfe, Gay Talese, Walt Harrington, Katherine Boo, Susan Orlean, John McPhee and lots of other great names who wrote for *The Atlantic Monthly*, *The New Yorker*, *The New York Times*, or the *Washington Post*.

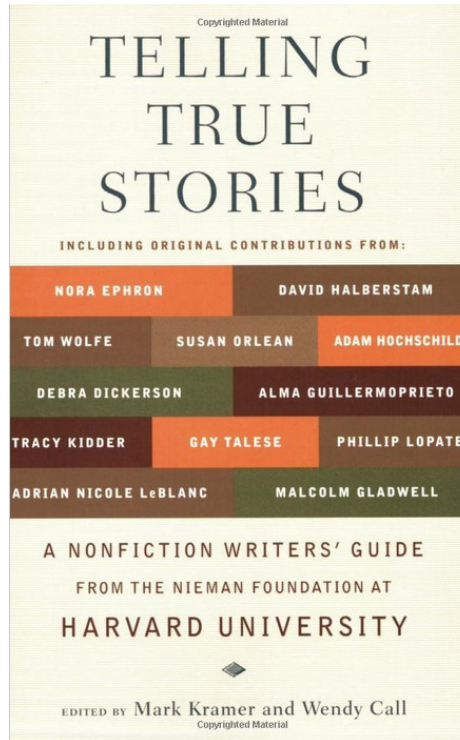


Photo source: <http://www.amazon.com>

The inspirational stories full of essential advice written by the giants of literary nonfiction were collected for the guide by editors Mark Kramer and Wendy Call—legends in the field themselves—based on their annual speeches at the storytelling conference held by the prestigious Nieman Foundation for Narrative Journalism at Harvard University. They speak about their craft, the principles they follow when doing their jobs, and the why and how of choosing a good subject, structuring the material and promoting their work.

Telling True Stories is especially aimed at journalists of the new generation who wish to make a change in their careers and try literary nonfiction and also at radio and TV professionals and writers of fiction and nonfiction.

In addition to the chance to read advice from the most successful American authors of the past decades (Gay Talese is 81 and has worked in the industry for over 60 years), the main attraction in this book is the authors’ approach, the honesty with which they narrate and the familiarity they establish with readers.

“Stories allow us to think wholeheartedly, to truly understand,” writes Mexican Alma Guillermoprieto while Loung Ung confesses, “I write because I want my readers to take action.” “Stories are our soul,” says Jacqui Banaszynski, Pulitzer Prize winner. She continues, “Write and edit and tell yours with your whole selves. Tell them as if they are all that matters. It matters that you do it as if that’s all there is.”

The book is divided into nine parts and combines the candor of confessions and the personal experiences of writers with some extremely practical techniques that are applicable for journalists and editors. “Read, read good nonfiction books; when you find a reporter who you admire, break his/her code. Examine the story and figure out what the reporter did, where he or she went, how the reporter constructed the story and why it worked,” writes David Halberstam. Bruce DeSilva, referring to the ending of a story, cites four essential steps to follow: “Signal to the reader

that the piece is over, reinforce your central point, resonate in your reader's mind after he or she turned the page, and arrive on time."

Organizing the essays into sections covering a certain topic also helps readers choose what they need and thus explore the most useful writings. On the other hand, for people who are not writers or journalists or who have no experience in literary nonfiction, the guide might be a little disorienting as the writers in *Telling True Stories* get directly into the core of the problem without much introduction, and the multitude of essays and explanations can be overwhelming.

For writers of nonfiction or fans of the genre, however, the guide can only inspire good ideas, new techniques to try, and even a feeling of familiarity and empathy towards the experiences shared by professionals.

Besides empathy and lots of useful advice, *Telling True Stories* contributes essentially to establishing a set of ethical standards for journalists and writers. In the introduction to the guide, Mark Kramer and Wendy Call remind us of the fact that the tension between art and the obligation to stay authentic and transparent is an inevitable challenge for the practitioners of literary journalism.

They underline the extent of the changes that have taken place since the youth of Tom Wolfe and Truman Capote who defended inventions in the name of reaching the so-called "larger truth", more important than the truth that can be verified.

On the other hand, John Hersey, Roy Peter Clark and John McPhee—journalists who are respected and rewarded for their impeccable ethic and for the beauty of their written narrative—

systematically prove that although selectivity and subjectivity are necessary in editorial decision making and that absolute truths do not exist, the limit to invention should never be crossed. "Do not add. Do not deceive," says Roy Peter Clark, stating the basic principles of the craft.

Authors also argue that in addition to needing to stay true to reality, literary nonfiction must also be convincing and seem true. Walt Harrington explains that, "Narrative journalists should operate under an ethical code similar to anthropologists and pledge allegiance to our subjects—we do owe them something." In other words, according to John McPhee, "The nonfiction writer is communicating with the reader about real people in real places. So if those people talk, you say what those people said. You don't say what the writer decides they said."

Telling True Stories helps people passionate about creating quality text to navigate in the troubled waters of art and objectivity serving as a practical collection, a helping hand and a push forward. Those who invest in the English-language guide will not regret their choice as it has remained complete and current with the passage of time.

In addition, it sends a very important message to practitioners of literary nonfiction, and this message is even more influential as it comes from people who enjoy respect in this industry: Journalism is a craft in which humility is an essential personality trait.

"In a culture of media bravado, there is plenty of room for strategic humility. This virtue teaches us that truth, with a capital T, is unattainable; that even though you can never get it, with hard work you can get at it," Kramer and Call conclude.

Ioana BURTEA

Media freedom index, Moldova, July – September 2013

Introductory Note

The Media Freedom Index and expert recommendations provided in the report are the product of ENP East Media Freedom Watch project implemented with support from the European Union.

The two-year project focuses on rating media freedom in the six Eastern Partnership countries (EaP) based on quarterly questionnaires on four broad topics (politics, practice, broadcasting and Internet and new media) completed by media experts in each country.

The experts score 55 indicators from 0 to 30 for a possible total of 1650 points. Based on the total, each country is ranked from 1 to 7 on the index. The project is intended to contribute to media freedom and to freedom of expression by increasing regional and international awareness about the state of press freedom and journalists' rights in all EaP countries.

Panel of Experts

Petru Macovei Director, Association of Independent Press

Ludmila Andronic Chair, Press Council

Ion Bunduchi media expert

Nadine Gogu Director, Independent Journalism Center

Olivia Pirtac media law expert

Doina Costin media law expert

Alina Turcanu Editor in Chief, *Adevarul* newspaper

Lucia Bacalu Director, *Expresul* newspaper

Vladimir Soloviov Editor in Chief, *Kommersant.md*

Alina Radu Director, *Ziarul de Garda* newspaper

Brief Overview

This analysis of the general political, economic and legal conditions influencing mass media is organized by the chapter headings in the questionnaire.

Chapter 1: Politics

From July through September 2013, neither the legal framework nor political circumstances registered significant changes regarding media freedom compared with the previous quarter. This was due in part to vacations (end of July to mid-September); however, experts noticed that in practice journalism is increasingly affected by shortcomings in the legal framework on access to information as well as by decisions taken by authorities.

There are a number of fees required by state bodies for releasing information of public interest that are deemed abusive by some experts and that lack justification. Often such information is vital for journalistic investigations, e.g. data from the public register on real estate or the State Registration Chamber (information on legal entities registered in Moldova). This resulted in a 4-point drop in the indicator on the quality of the law on access to information and a 2-point drop in the indicator on justifying areas where access to information can be restricted.

In addition, certain events and statements made by officials have also contributed. Among them was government's decision in late July to suspend online broadcasting of its sessions which was neither adequately discussed with civil society nor followed by an explanation as to how the information on these sessions can be otherwise obtained by media.

Also in early September, the Head of the Supreme Court of Justice, Mihai Poalelungi, said he would promote the idea of punishing defamation according to the Criminal Code as it was before 2005 (for details see section 4). The statement was perceived as a cause for concern especially since Justice Poalelungi previously acted as a judge at the European Court for Human Rights.

Hence the overall lower score for the entire chapter—165 points compared to 179 in the first index—accounted for the rating of 5 out of 7 (one position down).

Chapter 2: Practice

The score for the second chapter increased slightly mainly due to small improvements in numerous aspects of journalists' working conditions. Although the chapter overall scored 845.5 points—a rating of 6 out of 7—the sustainability of the developments in the long run is as yet unclear.

Assaults, threats, arrests

No cases of arrests or apprehension of journalists by law enforcement agencies have been registered lately, hence the indicator received very high scores of 29 and 30 points for the first four aspects related to killing, kidnapping, arrest or apprehension of journalists due to their job.

The aspect related to beatings and assaults of media professionals scored 8 points higher than previously (21 points), and

surveillance and monitoring of phone conversations improved by 2 points (16 points in the first index).

Nevertheless, cases of putting pressure on journalists haven't decreased, including both psychological pressure and threats and summoning by law enforcement authorities. Specifically, experts recalled the repeated, unjustified summons of staff of the weekly *Ziarul de Garda* by the Anticorruption Center in the investigation of a corruption case (for details, see Prosecution below and Section 4.). This case accounted for a 1-point drop to 14 points for indicator 2.1.1.8.

Since no cases of severe pressure on journalists have been recorded, all the other indicators related to the authorities' possible involvement were assessed more positively than previously (a maximum score of 30 for killings and kidnappings and 27 for assaults and harassments).

Nevertheless, some experts expressed doubt about the sustainability of these improvements in the event of a change in power. This led them to give the last indicator on diligent reaction by authorities in cases of violence and threats against journalists mostly 2 points ("depending on the circumstances, such as the journalist's political views") for an overall score of 21, an improvement of 3 points.

Prosecution

Although several years have passed since the Law on Freedom of Expression was adopted, its impact is still far from what it was expected to be. Unfortunately, many journalists ignore the provisions of the law and frequently misinterpret the legal framework and some fundamental notions regulating mass media.

In terms of judicial proceedings, courts fail to respect the preliminary procedure, and in many cases judges try cases under the provisions of Article 16 of the Civil Code or those of Article 10 of the European Convention on Human Rights without making any reference to the provisions of the new Law on Freedom of Expression. When the court and the parties have knowledge of the new law, many cases are remanded or dismissed for failure to respect the preliminary procedure or to pay the fees.

Still, the overall perception of the experts has improved especially due to a decrease in the number of lawsuits filed against journalists and more importantly, due to the decisions issued by judges who of late have abstained from imposing high fines on media institutions and journalists in cases of defamation. Although there is still room for improvement, the change was noticed by experts who rated indicator 2.2.1.3 at 25

points compared to 11 points in the previous index. There is still, however, no legal limitation on the amount that media outlets can be obliged to pay for damaging honor and reputation.

Also, there are cases when journalists are asked by law enforcement authorities to reveal the identity of their sources or that of members of reporting teams as was recently the case with reporters from *Ziarul de Garda* and the Anticorruption Center. The paper was asked to hand over unedited footage taken by undercover journalists. The newspaper's director said the reasons for the request were insufficiently explained and that officers from the center insisted on disclosing personal data on members of the reporting team covering the corruption case. The director said that the repeated requests for reporters' personal data amounted to intimidation. This case and similar ones accounted for the rating of 12 points for indicator 2.2.1.4, 3 points less than in the first index.

Access to information

The experts' perception of the legal framework on access to information is that its flaws are becoming increasingly obvious as journalists often find that public officials and civil servants alike can easily circumvent the provisions of the law by qualifying information as state or commercial secrets.

Also, many civil servants will not release information of public interest without their superior's prior consent, and a number of public institutions stipulate in their internal regulations that information can be released only by institution's press service or by a specific official. Notably, the draft regulation proposed in July to courts by the Superior Council of Magistrates would have restricted the right of media institutions to obtain information of public interest in a timely manner and would have enabled courts to give out information selectively (for details see Section 4).

Journalists also noted that data from the State Register (public register of contracts and documents) can be obtained for free with a delay but immediately for a fee the amount of which is not explained or justified. The same applies to data from the real estate registry. These facts led experts to give indicator 2.3.1 a score of 15 points, 4 points lower than previously.

An additional impediment noted particularly by independent press editors (*Ziarul de Garda* and *Adevarul*) is the poor culture of communication at ministry press services. Journalists claim that the attitude of press services regarding reporters' requests is not helpful; often they fail to issue information in a timely and complete manner, and the quality of the dialogue is superficial. Based on this, the experts awarded the indicator an overall score of 20.

Also, the government's open data portal Date.gov.md hasn't succeeded in filling this gap by providing relevant and complete information of public interest from a number of important authorities (for details see Section 4).

Censorship and self-censorship

The indicators on censorship received predictably high scores (28 points for censorship and 30 points for confiscation), but self-censorship is still commonplace in the Moldovan press as most experts rated the respective indicator either a 1 ("exists in all state-owned and many private media") or a 0 ("exists in all media"). Self-censorship thus received 8 points, once again the lowest score in the entire study.

Also, experts noted that there are no forbidden topics for Moldovan journalists, although the approaches to certain topics are manipulated. The indicator received 30 points.

Monopoly

Monopoly is yet another issue with obvious discrepancies. While there is no state monopoly on media (28.5 points overall), nor on printing facilities (27 points overall), the distribution market is plagued by the monopoly of two state-owned enterprises: Posta Moldovei (Moldovan Postal Service) and to a lesser extent Moldpresa.

Posta Moldovei is the only distributor that has national coverage, but prices are high and more importantly are set unilaterally. Experts agreed that the state-owned postal service offers expensive but low-quality services, and print press editors remarked that all dialogues initiated with Posta Moldovei have proved to be ineffective and that all requests coming from media outlets have been rejected so far. The indicator received 13 points, a 2.5 point increase from the previous index.

The transparency of media ownership is the second critical issue in this category. During the reference period, the legal framework was not improved nor did market conditions effect a positive change; however, the draft law amending the Broadcasting Code to improve transparency was registered in Parliament, and the Parliamentary Commission for Culture, Education, Research, Youth, Sports and Mass Media held public meetings on its provisions. The indicator therefore rated 9.5 points (a 2-point improvement) and as before remained the second lowest indicator in the entire study.

Economic conditions

Improvement was registered in economic conditions mostly as a result of the above-noted change in the court habit of imposing costly fines on media outlets. The financial conditions of media outlets are presently considered to be adequate and do not

threaten their sustainability (28 points overall compared with 14 previously).

The indicator regarding the frequency of controls and the level of fines levied by tax inspectors and similar authorities also received 28 points (17 points in the first index).

The advertising market is not controlled by government authorities; however, there is a strong perception among experts that the market is not really free and that those in power have a great deal of control over advertising in companies that they own or are affiliated with and implicitly over cash flows. This resulted in an overall score of 21 points, an increase of 3 points compared to the previous index.

Correspondingly, the state of the advertising market influences the long-term sustainability of media outlets, especially that of local and independent media. Some experts believe that broadcasters affiliated with businessman and vice-chair of the Democratic Party, Vladimir Plahotniuc, benefit from more advertising and that generally, media belonging to or affiliated with members of the government are more stable from a financial point of view. This explains to a certain extent the score of 24 points for indicator 2.6.6 regarding the existence of unequal economic conditions for media.

No cases of confiscation, forceful takeover or pressure to give up media businesses were recorded in this period, so indicators 2.6.5 and 2.6.7 were rated 30 and 28 points, respectively. As increasingly more media institutions are, however, concentrated in the hands of a few owners, there are experts who question the transparency of funding of certain broadcasters and the way these outlets came into the possession of their present owners.

Managers of other media, especially independent press editors, are discouraged from working transparently for the benefit of the public. Overall, the authorities have failed so far to conduct a dialogue with media managers focusing on common efforts and interest in developing a viable, independent media capable of informing and educating the public.

Chapter 3: Broadcasting

In the reference period, the situation of broadcast media and their relation with politics virtually did not change which explains the more or less consistent score of 19 points (1 point improvement) for the indicator on political pressure brought to bear on private stations.

The indicator assessing the quality of the national public broadcaster Teleradio Moldova also remained roughly unchanged at 21 points compare to 19 points in the first index

as most experts noted the slow pace of the reform initiated in 2010. To the date, most experts agreed that Teleradio Moldova still fails to meet the standards of public service broadcasting as understood in established democracies.

Concerning the independence of regulatory bodies, the Broadcast Coordinating Council did not receive any challenges to the fairness of its decisions during the reference period and even succeeded in taking advice based on statements of media nongovernment organizations (NGOs) (for details see Section 4). The corresponding indicator scored 28 points, a significant improvement compared to the 17 points in the previous index.

As to equal access to broadcasting during elections and political campaigns, there were no such events during the reference time, but the experts' general feeling was that the opposition has a great deal of access to the public broadcaster as well as to other private media. Some experts noted, however, that the opposition often chooses not to exercise their rights, declining invitations to take part in talk shows and other programs. The indicator received an overall score of 29 points, a 3-point improvement.

The issue of digitization has made little progress; experts rated the indicator slightly higher at 28 points overall compared to 24 points previously due to the fact that the authorities have finalized the program of transition to digital terrestrial television. The program of transition is still in Government and implementation has not begun, so it is difficult to predict the outcome.

However, one expert indicated that the text of the program contains provisions likely to limit the freedom of electronic media and however high the score of the indicator might be, it could be easily reversed in the future depending on the way the authorities implement the digital switch-over. The entire chapter on broadcasting scored 125 points overall, an improvement of 21 points compared to the previous rating period, and earned it a 6 out of 7 on the index.

Chapter 4: Internet and New Media

The freedom of the Internet and online media was assessed as satisfactory with higher scores for almost all indicators. Blocking Internet websites is not common anymore; neither are arrests, assaults or harassments of bloggers or of active Internet users.

This allowed a rating of 30 points for each indicator. On the other hand, experts noted the growing phenomenon of politicians and business people courting bloggers by offering them equipment, lavish meals during informal ("off-line") meetings in restaurants and money in exchange for promoting certain ideas or campaigns on the Internet. Often, this patronage

is not mentioned. The indicator on the affordability of Internet connection services increased by 5 points to reach an overall score of 26. The overall score of the chapter was 140 points compared to 115 points previously and was the most notable improvement in the entire index.

Media Freedom Index

According to the methodology, each indicator is assessed by experts on a scale of 0 to 30 point with 30 the highest level of press freedom. All scores are summed up for every chapter. The country's index for individual chapters is then calculated based on the ratings indicated in the following tables showing the scores for Moldova.

Chapter 1. Politics (8 indicators, 240 maximum points)

Rating (number of points)	Moldova's score	Index
0–40		1
50–70		2
80–100		3
110–130		4
140–160	165	5
170–190		6
200–240		7

Chapter 2. Practice (37 indicators, 1110 maximum points)

Rating (number of points)	Moldova's score	Index
0–170		1
180–320		2
330–470		3
480–620		4
630–770		5
780–920	845.5	6
930–1110		7

Chapter 3. Broadcasting (5 indicators, 150 maximum points)

Rating (number of points)	Moldova's score	Index
0–20		1
30–40		2
50–60		3
70–80		4
90–100		5
110–120	125	6
130–150		7

Chapter 4. Internet and New Media (5 indicators, 150 maximum points)

Rating (number of points)	Moldova's score	Index
0–20		1
30–40		2
50–60		3
70–80		4
90–100		5
110–120		6
130–150	140	7

Finally, the points for all four chapters are summed to calculate the overall index.

Overall Score (55 criteria, 1650 maximum points)

Rating (cumulative number of points for all 4 chapters)	Moldova's score	Index
0–250		1
260–470		2
480–690		3
700–910		4
920–1130		5
1140–1350	1275.5	6
1360–1650		7

Roadmap

These are the experts' recommendations for further developments in media freedom and freedom of expression.

- In order to have a truly free and independent press, authorities should ensure the functioning of existing laws, particularly the law on freedom of expression and the law on denationalizing public periodicals.
- The press law should be repealed.
- Access to information should be improved by:
 1. Ensuring the proper and uniform enforcement of the law on access to information;
 2. Re-evaluating the definitions of state secrets and commercial secrets;
 3. Shortening or eliminating the 15-day deadline for official replies to requests for information of public interest and providing for tougher sanctions for non-compliance with the provisions of the law;
 4. Providing online access to information on income, property and interests of public officials without prior written requests or deadlines.
- Concentration of mass media should be limited by:
 1. Amending the legal framework concerning media ownership, specifically by restricting the maximum

number of broadcasting licenses that a natural or legal person can own to two, including at most one license with national coverage;

2. Amending the legal framework in order to restrict persons elected or appointed to higher public offices nationally as well as locally from owning any media and if they do, compelling them to sell their shares to people who are not connected to them by family ties;
3. Amending the legal framework in order to ensure transparency of media ownership (including income sources, the shareholder structure and the ultimate beneficiary), and empowering the broadcast coordinating council to apply sanctions for non-compliance with the law.

- Measures should be taken to address monopolies and concentrations on the advertising market, including adopting a set of feasible and efficient mechanisms to limit foreign advertising in moldovan media space.
- A legal framework should be adopted to regulate the activity of broadcasters in the digital era ensuring that the digital switch-over does not affect media pluralism; the transition to digital terrestrial television should be strictly monitored.
- The law on public procurement should be amended to guarantee clear and transparent mechanisms for spending public funds on media, and to guarantee equal access of mass media to public funds directed to advertising and other informative purposes thus limiting media concentration and diminishing unfair competition.

Conclusions

These are areas of regress or progress on media freedom compared to the previous reporting period (March–June 2013).

Compared to the previous period, neither the legal framework nor the political circumstances registered significant changes regarding media freedom in July–September 2013; however, experts noticed that in practice journalism is becoming increasingly affected by shortcomings in the legal framework on access to information.

Some decisions and statements of the authorities were rather disappointing developments in the relationship between politics and media like the government's decision to suspend online broadcasts of its sessions and the statement of the Head of Supreme Court of Justice promoting the idea of punishing defamation according to the former Criminal Code. These two events were viewed as a cause for regress in the state of press freedom in Moldova.

Still, there was progress in the media's relationship with the judiciary due to a decrease in the number of lawsuits filed against journalists and, more importantly, due to the decisions issued by judges who recently seem to have abstained from imposing high levies on media institutions and journalists in cases of defamation.

Some other small progressive steps were recorded as the draft law improving transparency in media ownership was registered in Parliament and the Broadcast Coordinating Council hasn't received any criticism as to the fairness of its decisions.

The freedom of the Internet and online media was also an important achievement: cases of blocking of Internet websites are no longer common nor are arrests, assaults or persecution of bloggers or active Internet users.

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