



LUND UNIVERSITY

Master programme in Film and Media Producing

# **The freedom of mass media within the EU - the political construction considered the flagship of democracy**

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*Abstract:* The European Union has a special place in the popular culture when talking about democracy. The mass media represent “the watch dog of democracy”, therefore it is hard to imagine a real democracy without free mass media. Even though this freedom is guaranteed by the EU legislation, it is sometimes constrained in supposed democratic countries. The study aims to find if it is possible to constrain the freedom of mass media in a EU country, thus democratic country. If so, what could be the mechanism used in constraining this freedom? What reactions do the other EU members have?

*Key words:* Mass media, freedom, democracy, politics, European Union, manipulation, power, double standard

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## Table of contents

<b>1. Introduction</b>	<b>2</b>
<b>2. The objectives of the study</b>	<b>4</b>
<b>3. Theoretical considerations and previous research</b>	<b>5</b>
3.1. Definitions	5
3.2. Theories regarding mass media as mass communication	9
3.3. The fourth estate	10
3.4. Previous research	10
<b>4. Data and Method</b>	<b>15</b>
4.1. Data	15
4.2. Method	15
<b>5. Case Study</b>	<b>17</b>
5.1. Romania - a short description	17
5.2. The Romanian media corporations and the control authority	18
5.3. The functional mechanism of the Romanian media	24
5.4. The EU as a guarantor of the media freedom	32
<b>6. Conclusions</b>	<b>42</b>
<b>Bibliography</b>	<b>46</b>

## **1. Introduction**

The European Union has a special place in popular culture when talking about democracy. No matter how much people strive to avoid stereotypes, these shortcuts of the thinking process will govern the way people relate to different situations. Therefore the EU represents in the popular culture a flagship of democracy.

Mass media represent “the watch dog of democracy”. Therefore it is hard to imagine a real democracy without a free media. A free media is based on standards such as objectivity. Albuquerque (2005) analyzes the media in Brazil and finds what he calls “creative adaptation” as a surrogate for objectivity. The economical environment determines this creative adaptation thus the media objectivity becomes disputable. As a consequence the media freedom becomes disputable. According to Lewis, Williams and Franklin (2008) mass media lose their freedom due to their dependence on PR professionals and news agencies. Klugman (2007) argues that nowadays the “fifth estate” gains control over the mass media. In the same period Kalb and Saivetz (2007) describe how manipulation has a considerable role in mass media in certain situations.

This study aims to find out if media freedom is, under any circumstances, hindered within the EU. Because the EU is perceived as a flagship of democracy, the media’s freedom is implied. Due to difficulties in finding any recent study covering this subject, it could be of interest to explore it.

The study has as focus the situation of Romania as a member state of the EU. The analysis is conducted based on data from the European Union’s studies, academic studies, official national websites and television websites. The study has the following structure: part two presents the objectives of the study and the research questions, part three

describes the theoretical framework and the previous research on media in general and continues with the Romanian media environment, part four presents the method, part five presents the case study while part six reviews the case data and draws conclusions based on the findings.

## **2. The objectives of the study**

Over time, mass media have become as vital as food or other primary needs for modern society. They represent a source of information, entertainment and a method of communication, sometimes even replacing social interaction. Nowadays it is rather common to hear about mass media addiction. Considering the multitude of forms and shapes that these media are taking it is easy to understand why.

Thinking of mass media it is hard not to make an instant correlation with information and informing. It is assumed that mass media address to the great public, aiming to capture attention and persuade the opinion maker inside every social cell. Authors such as Tran and Stanciugelu (2001) and Dragan (2002), researching the mass media field, have as a starting point the public opinion as forming a binomial with the mass media. These authors argue about the power of mass media together with their counterbalance to the executive power, judiciary power and legislative power. It is considered that the mass media by default are the Forth Power of the state. Many seem to agree with this statement even though it might be easily questioned. Nevertheless it is still a strong asset at least as an expression. It is also assumed that the mass media work for the public service. This point of view might be considered as valid as the following assertion: *All countries are ruled by democracy!* Hence the aim of this paper is to find possible arguments and answers to the following questions:

- Is it possible to constrain the freedom of mass media in an EU country, thus democratic country?
- If so, what could be the mechanism used in constraining this freedom?
- What reactions do the other EU members have?

### **3. Theoretical considerations and previous research**

Mass media can be seen as an entire system, or even more accurately, as a system of systems. These systems have complex structures with many technologies and different actors. The roles these actors play are significant, but how they are played are even more important. Continuing the analogy with the film industry, other features of the “seventh art” can be taken into consideration. For instance, the most valuable quality of an actor is the art of acting or the ability to communicate. The actor needs to send signals to the audience and to code them in such a way that they are easy to decode and rapidly understood. More than this the actor needs to be sure that his signal is not just understood, but convinces the audience. This is the ability of persuasion. In certain conditions persuasion can become manipulation. There is just a thin line between them. Therefore, when arguing about mass media as a system of systems, which incorporates various types of technology, the most important feature remains the fact that this system masters the ability to communicate.

#### **3.1. Definitions**

It is important to start from the very basics of communication, therefore to define a few familiar notions that operate into the communication field especially in mass communication.

According to Tran and Stanciugelu (2001:103), communication represents, among other things, a “process of social inducement”. The authors make a short review of the most important terms and targets in mass communication and further they link them with mass media. The authors state: “In the modern democratic society a wide spreading of communicative devices can be observed. The devices have been progressively perfected

and the communication techniques put into practice become more sophisticated; between these ones and the manipulative techniques of propaganda, a frequent confusion is still present. This confusion characterizes some political and intellectual circles who tend to overestimate the <<power>> of mass media. It is true that clear boundaries between propaganda and communication cannot be drawn; but this undetermined zone doesn't have to stop us to see that the development of communication triggers new policies and practices whose functionality should be judged according to other criteria.”

The authors also highlight the following terms:

Social learning – “the assimilation process of social experiences” (Tran and Stanciugelu 2001:104);

Socialization – “psychosocial process of passing-assimilating of attitudes, values, conceptions or behavioral models specific to a group or community in order to form, adapt and socially integrate an individual“ (Tran and Stanciugelu 2001:104);

Social influence – “action exercised by a social entity (person or group) oriented towards modifying actions and manifestations of another.” Social influence can be easily perceived as “power and social control” although it doesn’t constrain (Tran and Stanciugelu 2001:104);

Propaganda – “systematic activity of transmitting, promoting and spreading of doctrines, thesis or ideas in order to influence, change or form conceptions, attitudes, opinions or behaviors” (Tran and Stanciugelu 2001:178);

Persuasion – “activity of influencing attitudes and behaviors in order to produce the changes according to the scopes and interests of the initiating agent (persons, groups, institutions or political, social, cultural, commercial organizations).” Persuasion aims to

convince without using force. Persuasion does not impose anything. It just searches to convince by adopting change as personal will (Tran and Stanciugelu 2001:105);

Manipulation – “action of determining a social actor (person, group or collectivity) to think and act according to the initiator's interests and not its own, by using persuading techniques which intentionally distort the truth, leaving the impression of free will and decision” (Tran and Stanciugelu 2001:105). Manipulation is more frequently used nowadays since this instrument has become more powerful than using physical force. Moreover it creates the illusion of being in charge with own decisions, therefore living in a democratic environment. Some authors view manipulation as the substitute of violence from physical to symbolical (Bourdieu 1998 cited in Tran and Stanciugelu 2001). In terms of politics, manipulation can be regarded as “a form of imposing the interests of a class, group, collectivity not through coercion of power resources, but through misleading propaganda” (Bourdieu 1998 cited in Tran and Stanciugelu 2001:108).

Considering that nowadays manipulation is the biggest threat for the masses, this paper searches to further review various concepts of communication and how these can become manipulation. Boudon (1997) claims that the receptor is not a sort of clay that can be modeled and that can simply record the messages. The receptor makes a selection and decodes the messages in concordance to its own believes, its own personal and social situation, its own opinions, ideas and expectations. McQuail (1999) uses another important term to underline the relation between the exponent of power and the receptor, “influence”. According to McQuail (1999) the term “influence” is used in situations when the exponent of power obtains the conformation of the receptor through power.

This power is exercised with the help of communication. McQuail (1999) reviews several characteristics of exerting influence. The first characteristic refers to the fact that the change towards the wanted behavior becomes more precise as the monopoly over the communication sources increases. The second characteristic reveals that the effect over the receptor becomes effective when the receptor already shares the same opinions and beliefs. The third characteristic refers to mass communication and resides in the fact that unfamiliar issues become easier to assimilate by the receptor through mass media. The fourth characteristic takes into consideration the fact that the receptor is open to accept and adopt the content of the message by giving credit and prestige to the message source.

French and Raven (1959) also highlight five bases of the power, which give the communicator the means to influence. These bases are: rewarding power, power of coercion, legitimate power, referential (identity) power and the power of expert.

Thomson (1995) finds four major forms of power and he structures them as follows: economic power, political power, coercion power and symbolic power. Regarding symbolic power, mass media has taken this role in modern democratic societies. Mass media act in a “two-step flow” according to Katz and Lazarsfeld (2006). The information spread through media first reaches the opinion leaders, who transmit it further to other population groups. “The gatekeeper” has a very important role in the two-step flow influence. The gatekeeper is the one that represents the guardian or the key source of the information. The gatekeeper has control over the information, therefore over the influence.

Tran and Stanciugelu (2001:113) referring to forms of power conclude: “It is seldom when only one source of power is taking action. Usually the situation of influence

involves various combinations, in which the forms of power relate non additive and interactive”.

The “public space” is the central concept of Habermas (1998) when analyzing the binomial mass communication and democracy. The analysis is focused on the following entities: public opinion, mass media and politics. Therefore, from his point of view the public space is the place where the mediation between the former stated entities takes action. Habermas (1998) considers that the public opinion is the one that is legitimate to decide the public norms and to criticize the power. In reality the public space is dominated by a divergence of opinions and interests; it is dominated of a perpetual crisis.

Wolton (1995) gives a very comprehensive definition of public space. In his view the public space is the place where various actors such as politicians, social, religious and intellectual figures present their speeches and respond to each other. Most of the time the speeches are argumentative. This symbolic zone exists between the civil society and the state. Wolton (1995) also considers that the role of the civil society is diminishing simultaneously with the increasing of the political communication.

### **3.2. Theories regarding mass media as mass communication**

Dragan (2002:158) defines mass media as the main part in the surveillance of the public space. The author claims that mass media confer legitimacy and moreover they can be the channels of persuasion and mobilization as well instruments of propaganda and manipulation. Mass media create and support the dynamics in the public space.

Tran and Stanciugelu (2001) categorize the types of mass media messages in: Information, Entertainment and Ideas & Opinions. Because the message type Entertainment does not make the object of this study, the focus will be put on the other

two types: Information and Ideas & Opinions. Information is the type of message that can be sheer such as sport results, weather forecast, or processed such as reportage, news bulletin. The Ideas & Opinions message type is very important by being the most subjective. Together with the Information message type it creates the public agenda.

### **3.3. The forth estate**

Dobrescu and Bargaoanu (2001) pose the question: “Forth estate or the dominant power?” According to them, Edmund Burke, historian, philosopher and politician, stated during a speech in Great Britain's Parliament while looking towards the press sector: “You are the fourth estate!” It is assumed that in his vision the press was at the same level of power with the church, the aristocracy and the bourgeoisie. It is also assumed that the researchers at the time were putting the press in a sort of counterbalance to the other three powers of the state: the legislative power, the executive power and the judiciary power.

Dobrescu and Bargaoanu (2001:276) citing Jean-Nöel Jeanneney (1997) claim that: “There are six powers in this moment in our society. Those three described by Montesquieu (legislative, executive, judiciary) and another three of prime importance: the technological-scientific one, the financial one and the media. The executive power has become the weakest one. All powers have counter-powers with only one exception: the media power. The democracies are in danger when a power doesn't have its own counter-power.”

### **3.4. Previous research**

Mass media can be easily put into relation with any other field in modern society. This section reviews several approaches focused on the relation of mass media with politics, censorship and mediation. These three concepts are interconnected with each

other. Each of them involves the others to a certain extent depending on the particularities of different situations. The case study will give an example of a specific situation when these three concepts are interconnected.

Considering that American knowledge and research are the most abundant in the mass media field, it is appropriate to start from there. An editorial called: “The fourth branch of government and the historical legacy of the Bush administration's information policies” by Paul T. Jaeger (2009) briefly reviews the relation of power between the George W. Bush administration and the media censorship. Jaeger (2009) makes a parallel between president John Adams’ administration and Bush’s administration. “In a time of fear of war with one or more of Britain, Spain, and France, the Congress passed and President John Adams signed into law the Alien and Sedition Acts that were intended to strongly curtail the ability of citizens to speak against the policies and activities of the government. These acts were quickly rejected by the citizenry and the courts, and soon after the legislature, as being antithetical to the Constitution, particularly the cherished First Amendment. The Bush-era has brought a series of laws, like the USA Patriot Act (P.L. 107-56) and the Homeland Security Act (P.L. 107-295), as well as many likely-illegal activities like warrant-less wiretapping programs and Massive database mining, that cut significantly into the First Amendment by allowing the government to monitor what citizens read, say, and do” Jaeger (2009:311). This can be clearly and unequivocally called “censorship” according to the definition gave by Hopkins (2007).

Albuquerque (2005) in his study “Another ‘Fourth Branch’ - Press and political culture in Brazil” describes the mass media in Brazil comparing it to the media in the U.S, which is taken as a standard. He starts his comparison with “the objectivity” and

states that although mass media claim it, the majority of journalists are not practicing it. He perceives the pursuit of journalistic norms as “creative adaptation” rather than norms adapted to the particularities of the Brazilian mass media. Through creative adaptation the author refers to the way journalists decide to reveal information. The content of the information is adapted to the personal interest of the one who releases it. Albuquerque (2005) brings into attention one reason that influenced creative adaptation, the economic environment.

Lewis, Williams and Franklin (2008) show that mass media are starting to become, in a way, dependent on PR professionals and news agencies. Nowadays mass media are buying “pre-packaged sources of news deriving from the PR industry and news agencies” (Lewis, Williams and Franklin 2008:1). The authors bring to attention a very interesting term of “fifth estate”, referring to PR, which seems to somehow take over the mass media.

Being a predecessor of Lewis, Williams and Franklin (2008), Klugman (2007) argues about the tendencies of mass media to fit its content so that it becomes a story artifact. Groups that belong to the “fifth estate” gain control over the mass media topics.

Trying to explore the line between public interest and security matters, Berman-Kishony and Matz (2007) state that the mediation process should not happen under public pressure, even though it is made for the public interest. Therefore the mediation process should not be exposed in mass media. An example of this situation could be the negotiations between the police and the antiheroes under the pressure of having hostages. In a very moderate manner the authors state that neither right is absolute over the other. The right of being informed should not prevail over others’ right to social security.

Remaining in the same zone of conflict and limit situations, Kalb and Saivetz (2007) describe the media coverage during the war between Israel and Hezbollah from 2006. They describe how manipulation has a considerable role in mass media. The sensational is searched for selling the news and a vicious circle of searching for even more spectacular is created. Another highlighted element is the fact that no matter where the broadcasters were based while being present at the same event, the news directions were totally different. A concluding remark would be that the journalists are not looking anymore for objectivity, but they are in a race for activism and advocacy.

The Center for Media and Communication Studies (CMCS) released in 2012 the study “Hungarian Media Laws in Europe – An Assessment of the Consistency of Hungary’s Media Laws with European Practices and Norms”. While the Hungarian officials claim to have created a set of laws in conformity with the European standards, a wave of criticism arose from announcing these laws. In December 2010 and January 2011, in the same period when Hungary took the presidency of the European Council, two debatable laws were released. The authors start from the criticism towards the new media laws initiated by the Hungarian law makers and aim to find the similarities among the 20 European states which Hungarian authorities claimed to have been inspired by. One of the first findings of the study is that the media regulations are highly diverse among European countries and even among European Union’s members. The freedom of expression and the press are granted by the EU, but in the domestic laws they seem to be legislated in an uneven manner. Moreover the study finds occasionally conflicts between the European Commission, the European Parliament and the Council of Europe. Based on this it can be stated that the EU shows inconsistency.

Strictly regarding the Hungarian laws, the study concludes that these are inconsistent with the European media regulations. Many factual inaccuracies were found which could lead to broad misinterpretations; which means that the laws are very different from the European Union's goal.

## **4. Data and Method**

### **4.1. Data**

This study aims to answer the previously stated research questions using as unit of analysis Romania and more specifically the television industry on the Romanian territory. The main focus will be towards news televisions, which represent a niche sector, but with a huge impact over the Romanian public. The relation between the political class in power and Antena3 as a part of Intact Media Group will be predominantly analyzed. The rivalry between the president Traian Basescu and Intact Media Group is notorious.

The decision of choosing this country was based on the fact that it is a medium sized country with a medium sized population. Romania is a country integrated in the Euro-Atlantic structures, being a member of NATO since 29<sup>th</sup> March 2004 and a member of EU since 1<sup>st</sup> January 2007.

The data were gathered from the European Union's studies, official national websites and television websites, thus this study uses only secondary data. According to Saunders et al. (2009) this could pose in general some bias inconvenience. Considering the fact that the data used in this study are official information found on official websites of Romanian institutions, some of them representing the state, it is assumed to be reliable information and unbiased.

### **4.2. Method**

Being an exploratory study that seeks to find out what is happening in a specific environment, the case study method was chosen. Even though many disciplines use the case study method, it makes the subject of criticism because in the end it doesn't lead to a singular result that could be used in order to generalize. The result might be valid only in

that particular framework with a specific convergence of factors. But according to Scholz and Tietje (2002:4) this approach is used in studies where —“biographic, authentic, historic dynamics and perspectives on a particular subject are considered”, thus it makes it the most valid method in the current case. The current study approaches a phenomenon that takes place in the guidelines traced by Scholz and Tietje (2002). It explores a particular situation, in a historical frame with special dynamics and in a field that although is widely researched still has many enigmas. Mass media suffer a permanent metamorphose therefore excepting several basic major concepts everything is new or reinvented.

## **5. Case Study**

### **5.1. Romania - a short description**

Romania is one of the youngest democracies in Europe. Its new era began with the 1989 Revolution, which many ordinary people might still doubt as being a real revolution. A lot of things are still blurry and many questions unanswered about it. The ghosts of December '89 revolution are still pulling many strings in Romania's politics.

Ion Iliescu, a first line communist and close associate of Ceausescu couple, was the first democratic elected president of Romania. He proposed for Romania to become an "Original Democracy" (Fodor 2013). It is still not very clear what he really meant and many speculations were made around this syntagma. Thus it can be argued that Ion Iliescu was the one who put the bases of democracy in Romania.

Another first line communist, Silviu Brucan, more as a doctrine follower than as a decision maker, said that: "To accustom democracy, Romanians need 20 years!" He made the statement shortly after the '89 Revolution (Neamtu and Nenu 2011). It is easy to remember the wave of disapproval stirred, while the words are still paraphrased today. Sadly, the popular culture adopted the phrase and even more sadly is the fact that today those "20" needs to be prolonged to "50".

In 2004 during the election campaign, the Democrat Party (PD) candidate Traian Basescu, stated in front of the audience of the Romanian Television (TVR): "What a curse could be upon this people, that have reached in the end to choose between two communists? Between Adrian Nastase and Traian Basescu! In 15 years none has come from this world, without going through the communist vices, not being affected by anything. What curse could be this? You have my word, I am sorry!" It was happening on

the 8<sup>th</sup> of December 2004 during “Destinatia Cotroceni” Live transmission of TVR1 channel (Leca 2010). Traian Basescu won those elections. Nowadays he is still Romania’s President due to winning the second mandate in 2009.

Besides the rebirth of the democratic Romania there are several other particularities that should be mentioned because all these together are creating the Romanian puzzle. Romania is the only Latin country in the region. It has a strong Eastern influence, but a very open, almost mimetic, attitude to the West. Even though it finds itself at a confluence of nations and cultures, approximately 89% of the population ethnicity is Romanian, 7% Hungarian and 4% other minorities. Romania has the biggest population of the region and also the largest territory. At the middle of 2012 the population is estimated in between 19 and 20 million people. The living standards of Romanians are among the lowest in the EU, even though the country has many natural resources (INSSE 2012).

## **5.2. The Romanian media corporations and the control authority**

Mass media as an exponent of the Romania's new democracy had also to be reborn, grown and educated, but today it is considered as representing a mature field.

The Romanian media corporations can be presented as being the following: Intact Media Group, Media Pro, Realitatea Media, and Romanian National Television (TVR). RCS & RDS should be mentioned as the largest and the most influential cable operator and media & telecommunication service provider. Other players worth mentioned are OCRAM Television, B1 TV Channel and 10 TV (closed after only a few months of emission).

Intact Media Group represents the first media greenfield business in Romania

having 100% Romanian capital. It is owned by the Voiculescu family and started in 1991 with the first company Intact Typography. Later it grew by adding many other media branches. The most important television stations that Intact Media owns are Antena1 – general content, Antena2 – entertainment content and Antena3 – the biggest news station in Romania. In radio broadcasting, the group owns Radio ZU and Romantic FM. Intact possesses as well several newspapers and magazines and also Intact Media Academy which recruits and trains the new professionals for the group. The founder Dan Voiculescu is now involved in leading Dan Voiculescu Foundation while the Group is formally under his daughter's ownership (INTACT 2013).

Media PRO was founded in 1991 by the film director Adrian Sarbu. The group started with a limited company MediaPro and later, in 1993, the news agency Mediafax was added. At this moment Media PRO is 95% owned by the Bermuda located company CME (Central European Media Enterprises) where Adrian Sarbu holds the position of President and Chief Executive Officer. The branches that Media PRO activates in are: television, radio, film production and publishing. The most important brands of the group are: ProTV – the biggest television station with general content in Romania, ProCinema specialized in film broadcasting, ProFM radio station and MediaProEntertainment within the film production and film distribution field (Ascultalive.ro 2013).

Realitatea-Catavencu Group is one of the biggest media groups in Romania. The group has Sorin Ovidiu Vantu as major shareholder. Vantu is probably the most controversial businessman in Romania. His name is bound to FNI (National Investments Found) one of the biggest financial frauds in Romania's history. Realitatea-Catavencu Group was founded in 2006 when Realitatea Media owned by Sorin Ovidiu Vantu bought

the press corporation Academia Catavencu. Realitatea-Catavencu Group holds the following media institutions: Realitatea TV – news channel; The Money Channel – news channel specialized in economy news; NewsIN – news agency; Realitatea FM; Gold FM and Radio Guerrilla – radio stations; several newspapers and magazines together with an advertising agency (GRUPRC 2013).

Romanian National Television (TVR) has status of public institution and broadcasts on seven channels as it follows: TVR1 – general content; TVR2 – general content with a consumer target set on young consumers; TVR3 – general content produced in regional divisions of TVR (Bucharest, Iasi, Craiova, Timisoara, Cluj, Mures); TVR Cultural – broadcasts only cultural related events and documentaries; TVR Info – news station; TVR International – television station dedicated to the Romanians in diasporas; TVR HD – broadcasts general content only using the latest technologies. TVR is subordinated to the Romanian Parliament, which names the CEO every four years. Nevertheless the parliament can decide to change the CEO earlier if necessarily considered. The Board of Directors is formed out of 13 members also named by the parliament. TVR has three sources of finance: state funds, monthly taxes from consumers (by default every household) and commercial publicity (TVR 2013).

RCS & RDS was founded in 1998 and it is owned by the company Cable Communication Systems (CATV) from Holland. CATV has Zoltan Teszari as major shareholder, a very blurry businessman assumed to be connected with interest groups in the current political power in Bucharest. RCS & RDS is the largest operator of cable television in Romania and most of its subscribers are captive subscribers. By being a captive subscriber, the consumers of a geographical area doesn't have access to any other

cable operator than the one who has license and has built the cable network in the respective area. The only alternative solution is to own a more expensive, harder to implement and more inconvenient satellite antenna. Besides the cable network, RCS & RDS operates on Internet and on the telephony market and owns Digi24 - news channel. As an important aspect should be brought into attention the fact that RCS & RDS, during the summer of 2011, negotiated to buy UPC – the second largest cable television network holder and also media & telecommunication service provider (Despa 2011). If successfully, this strategic move would have led to a monopoly on the market of media & telecommunication service providing.

OCRAM television represents a group of two televisions belonging to another controversial businessman, Dan Diaconescu. OTV and DDTV – have a general content and the most important production represented the daily talk show hosted by Dan Diaconescu (Ziare.com 2009). Currently, neither of these stations have broadcasting license.

SC B1 TV Channel SRL (B1 TV) is considered the *house station* of Traian Basescu, the current president of Romania. B1 TV is a general content television, which publicly admitted to support the president. B1 TV and 10 TV - general content station owned by RCS & RDS, have in common Radu Moraru talk show moderator and shareholder. 10 TV was launched in December 2010 and after a few months was already bankrupt. The license for this television was changed for another television, which later had to become Digi24 (Adevarul 2011).

Another important actor worth to be mentioned is the National Council of Audio-visual (CNA). The council is the only authority for regulation in the field of audio-visual

programs. It is a public institution that activates under the parliament's control and it is led by a board formed of eleven members. The board members are approved by the parliament for mandates of six years. The parliament approves the members that are proposed as it follows: the Senate – three members, the Deputy Chamber – three members, the Government – three members and the Presidential Institution – two members. The council reunites two times per week in public meetings (CNA 2012a).

In July 2012, the board members of CNA were:

Rasvan Popescu – the president of the council, was elected in 2007 by decision of the Romanian Parliament. Until 2000, when he started the activity as a CNA member, Rasvan Popescu worked as press and radio journalist, chief editor for TVR, spokesman for the Romanian Government and spokesman for the Romanian President Administration (CNA 2012b).

Ioan Onisei – vice-president of the council is a law school graduate. He was a member of the Deputy Chamber of Romania and within this position he was member of the Culture, Arts and Mass media Committee, coauthor and member within the Constitution revising commission, coauthor for numerous law projects regarding audio-visual, cinema, free access to public interest information (CNA 2012b). Important to mention is that he was a member of the Democrat Party (PD) and from this position he was elected as deputy.

Mircea Valeriu Deaca – press editor and film critic, replaced Radu F. Alexandru (Democrat Party member of CNA). According to Cerban (2012), Mircea Valeriu Deaca is a previous member of PCR (the Romanian Communist Party) and a current member of PD (Democrat Party).

Constantin Dutu – Ballet choreographer, producer, businessman, vice-president of the Culture, Arts and Mass media Committee within deputy chamber from PRM (Great Romania Party) side (CNA 2012b).

Narcisa Iorga – press editor, department chief for internal affairs, deputy chief editor, publicist and commenter. Starting 2005 she was in charge with the communication department of the Democrat Party (CNA 2012b).

Valentin-Alexandru Jucan – was a counselor of a state secretary within the Regional Development and Tourism Ministry and a former member of PD (Democrat Party). He resigned from PD in order to become a C.N.A. member (Timonea 2012).

Mihai Adrian Malaimare – actor and theater director. He was the president of the Culture committee of the Deputy Chamber (CNA 2012b).

Christian Mititelu – was the editorial office director of BBC branch in Romania. He was named in C.N.A after a proposal coming from the Romanian Government in 2008 (CNA 2012b).

Gelu Marian Trandafir – editor, reporter and producer.

Cristina Trepcea – Political studies as well Psychology studies graduate. She was radio journalist, editor and also Government administration counselor (CNA 2012b).

Looking at these data, it is obvious that the political involvement is huge. Members are proposed and named politically and their background is in most of the cases predominantly connected to the political area.

Considering all the institutions and the formerly presented characteristics, it would be necessarily to have a wider image for the whole media environment of Romania. Thus in the following part the entire functional mechanism of the Romanian

media will be further analyzed.

### **5.3. The functional mechanism of the Romanian media**

The political stage of Romania is very distraught and this is a generally accepted issue. It is accepted by politicians, it is accepted by mass media and it is accepted by Romania's citizens. It is not seldom when Romanians put all the political parties on the same line, not feeling at least a bit as being represented by any of them. The general feeling of changing the administrations or the regimes, but not the habits, can be sustained by the lack of participation during elections. During the elections from 2007, only 44,45% of the population with voting rights came to vote, while in 2009, only 56,99%, one of the highest in the recent years (BEC 2007, 2009). Another characteristic of the Romanian political stage is the one of being extremely visible in the mass media. Judging by the inflation of media corporations, television channels and news stations, it can be argued that Romanian media consumer is among the most addicted in Europe. Thus a lot of debate takes place and characterize the Romanian public space. The discourse, although rich in words, becomes very poor in ideas and betrays the politicians' reason behind.

Adrian-Paul Iliescu (2011:16) states the following: "Democracy cannot exist in the absence of a multitude of moral, social and political interpretations susceptible to compete freely [...] One cannot talk about a democratic regime if dogma or the <<framing>> pressure rules, because through dogma an unique thinking is imposed, impenetrable to any political pluralism and to any genuine freedom". Therefore a first possible issue could be observed and it can be argued that: Romania has many television stations, but low quality and substance in the political debate. An alarm signal is pulled

again by Adrian-Paul Iliescu (2011:19) claiming that: “The diversity of opinion is indispensable; it needs to be defended as well as the multitude of organizations (multiparty system) needs. Nevertheless mass media continue to promote stereotyping and to treat the matters from a unique perspective. Further it repudiates, more discrete or more ostentatious, any alternative opinion to those dominant ones”.

Without generalizing, mass media unfortunately avoid to play their ethic role and be the watch dog of democracy. Mass media seem to be very efficient in missing the point intentionally or not. Instead of asking the key-question and go for the “reason behind” they participate in building a well-covered theatrical play. A very important part in giving credibility to this inglorious desideratum, are some public intellectuals who are playing roles while taking sides. There are situations when they are in obvious contradiction with previous opinions stated by them, only in order to support their new orientation. Same as a part of the mass media, they all prefer to take part at a well-orchestrated drama. In both cases it is relatively easy to observe an aggressive political activism, well disguised as being preoccupied of stability and claiming to understand matters at a superior level. A concept that can be adapted to the Romanian media is the one that Sandru (2011:85) uses to describe the attitude in politics. On the one side it presents the “inefficient multiparty syndrome” while on the other side it can be seen as the “dominant party”. In other words there could be many actors but sterile or only one actor imposing his will.

Bocancea C. (2011:41) tries to make a recipe for a successful media communication. He asserts that the main stereotype is to categorize everything with good-bad and democratic-undemocratic. Another ingredient is the mass of cliché that

needs to be used, but the most important remains the public intellectual. The intellectual is “the argument of authority”, “the guarantor of political correctness” and “people's representative”.

Adrian-Paul Iliescu (2011) identifies several current issues of the Romanian society. He talks about rapid privatizations made for the sake of getting rid of huge energy inefficient and nonperforming industries. These industries were taken from the state's property and passed to foreign or inland investors for much less than their market value. Among these were factories, banks and even natural resources. He also talks about small groups of interest that took under possession public properties for “exclusive personal interest”. Media presented these privatizations as reforms and whoever was against them was against the reform. Iliescu (2011:22) identifies the groups of interest as leading to the president Traian Basescu. He also identifies B1 TV as the main messenger of this group of interests, finding itself in a continuous state of public intoxication. This group, through B1 TV, publicly claimed that the economic recession is normal and a state, which is not communist anymore, cannot afford to pay too much social assistance. Iliescu (2011:23) citing Lakoff (1996) identifies the manner used by the propagandistic media to influence thinking through stereotypes. They call the method “framing” and it is used by building semantic constructions that lead to involuntary analysis in consumers' brain. The example used is binding the word “sickly” to “economy”. By using the syntagma “sickly economy” a process of association between the medical state and economy starts, thus the thinking is set towards this direction.

George Bondor (2011) analyzes some reasons and possibilities why the Romanian media chose to be more interested in being by the political power's side than against it.

He finds two major reasons for this. The first one is that after the year 1990, the paid publicity came especially from the state. Even nowadays it is possible to find unnecessarily advertising, for instance for a ministry. The climax for this happening was between years 2000 and 2004. The second reason today, would be the editorial line imposed by the media owners. Bondor (2011) asserts that there are known cases when entire teams of editors were dismissed for rather following other ways than the owners' interests. It is then clear that there is no acceptance for plurality in the expense of economical and even more, political reasons. Thus the mass media market is free, but the freedom of the press decreases. This phenomenon tends to worsen up during election campaigns.

Between 2000 and 2004, Bocancea S. (2011:98) calls the press as “a pressed press” by the political power. Adrian Nastase who was the prime minister in that period was controlling the financial resorts that helped him to gain a strong image in the media. The effect was proved to be exactly the opposite. In the end Nastase lost the election battle against Traian Basescu. Nastase built what it is called “the cult of personality” (Bocancea S. 2011:98). Also highlighted it is the fact that, according to RSF (Reporters sans Frontieres), the Romanian media had the lowest ranking regarding the degree of media independence during the same period. Romania was ranked 70. After 2004 Romania's ranking started to grow. However the best rank was obtained in 2007 and it was 42, until the open conflict between the prime minister of that time and Traian Basescu. In 2010 the rank went again down to 52.

Starting 2007 the relation between the political power and a small part of the media started to deteriorate, observed Bocancea S. (2011). Comparing the Romanian

environment to the Western democracies he observed that the conflict is not similar. In Western countries the conflict between political representatives is over ideas and programs. In Romania the conflict is between that small part of the media that doesn't obey and the political power. The main actor of this political power is the Presidential Administration, which tries to obtain a sort of unanimity.

Ilas (2011) reminds in his work about important facts in the Romanian presidential elections of year 2009. He shortly presented the relation that the Romanian president had with the media. This relation can also be extended to other institutions following the same pattern. Ilas (2011) refers at Traian Basescu's way of acting with the syntagma "Romanian Watergate". He talks about information leaking regarding Mircea Geoana, the competing candidate of Traian Basescu. This information was in Basescu's possession and he used it in the election campaign. Basescu also attacked the media corporations Intact Group and Realitatea-Catavencu for being the only ones not supporting his campaign. Basescu nicknamed the editors and reporters of Intact and Realitatea-Catavencu, "jukeboxes", and their employers, "moguls" (Ilas 2011:52). Basescu even claimed that his opponents maintained the economic recession. To be mentioned, Basescu together with the Democrat Party were in charge with Romania's politic leadership since December 2004. The scandal culminated with the apparition in the mass media of some transcript of telephone calls attributed to Sorin Ovidiu Vantu the owner of Realitatea-Catavencu. The transcripts were supposed to prove that Vantu was dictating the editorial policy of Realitatea-Catavencu. However it is worrying the fact that it is easily accepted to intercept, record and later to attack the opponents with transcripts of their personal telephone-calls.

Concluding, Ilas (2011:52) asserts: “<<Watergate>>, but with manipulations and insults, not with evidences – all these led to the transformation of the public opinion and the public space into a battlefield of partisan struggle. This hinders the development possibilities of a competitive market for the most productive opinions for the community, as well as the possibility to satisfy the needs of real information”.

In 2010 another situation was entitled to cause huge interest. It was launched: “The National Strategy of Defense – For Romania which guarantees the security and the prosperity of future generations”. The document was elaborated by the CSAT (The Superior Council of Country Defense), which has as member with full attributions of president, Romania’s president Traian Basescu. One of the vulnerabilities taken into consideration was: “The phenomenon of press campaigns made on purpose and having as scope the denigration of state's institutions through spreading false information about their activities; the pressure exercised by the media corporations over the political decisions in order to obtain economic benefits or of other nature in the relation with the state's institutions”. According to the same document, the threats are factors with external origin throughout which the national interests, values and objectives of security are severely affected; while vulnerabilities are the factors inside the society that enhance the action of threats. The scope of the National Strategy of Defense is to assure a modern and efficient risk management of threats and vulnerabilities, having as a first phase their inventorying, prevention and reduction and thereafter their disproof” (Romania's Presidency 2010:13-14).

According to Bocancea S. (2011:102), the spokesman of the president administration stated: “The president and CSAT haven't identified the press as being the

principal vulnerability, but one of them ... the purpose of the document is not to put the press against the wall, but to make an honest and correct inventory of the Romanian state”. According to the same source Bocancea S. (2011:102), the president's counselor Peter Ekstein Kovacs stated: “It is quite a thick report, which punctually, is doing an enumeration of what represents a problem on the national plan regarding security matters. It is a CSAT observation. It was an election campaign where many of the press corporations involved themselves above the statute of ordinary neutrality and objectivity”. On the other side the opposition represented by Adrian Nastase who at his turn was authoritarian to media freedom, concluded: “It is an authoritarian temptation which marked the public life for the past five years [...] Who could establish when a media campaign represents a vulnerability?” Bocancea S. (2011:102)

At the first sight it is common to conclude that introducing the media as vulnerability was a simple move to warn, if not even threat, the two media corporations Intact and Realitatea-Catavencu. Nevertheless according to Bocancea S. (2011:108), citing transcripts where Vantu was recorded, the last one asserted: “If I make a truce with Basescu tomorrow [...] from that moment the organization is ordered and the organization is with Basescu. [...] Today I need an organization to answer to my orders [...] the only state of affairs here are Vantu’s orders [...] it is over with jokes such as editorial independence; I am able to arrange my own games”.

Having in mind the rather difficult process of obtaining official information, the argumentation for the following part will be based only on media articles. For an argumentation as unbiased as possible, none article coming from the Intact Media Group will be used.

In the summer of 2012 the president of Romania Traian Basescu was suspended by the Romanian Parliament from the office due to alleged breaching of the Constitution. According to the mass media, the suspension from office came as Traian Basescu, having no constitutional attribution in Government and Justice, repeatedly interfered, influenced and even announced resolutions in the name of previously mentioned institutions of power. The document elaborated by the opposition and voted by the Parliament raised seven main issues each one with more subsections (Stirile PROTV 2012).

On the 6<sup>th</sup> of July 2012 the Parliament of Romania voted with 256 “for”, 114 “against” and two “invalid” votes to suspend the president from office. The Parliament set the Referendum for the dismissal on the 29<sup>th</sup> of July during the same year (Avocatnet.ro 2012).

Between the date of suspension from office and the public referendum for demission Basescu had a very alike election campaign. During the campaign he didn't miss any opportunity to launch attacks against the opposition's politicians, while the media, mainly represented by Intact Media, can be described as the second favorite target (Dinu 2012).

Victor Roncea as a freelancer journalist describes the media during the referendum campaign. On his webpage it is shown the media balance regarding the favorable news, tilted towards the suspended president (Roncea 2012). With only two entities against, and both coming from Intact Media Group, it is questionable why the suspended president felt the urge to attack the media again.

The Referendum official results came out on the 1<sup>st</sup> of August according to Realitatea News citing the Central Election Bureau. When 99.97% of the votes were

counted, 87.52% of the voters chose for the president to be dismissed while only 11.15% voted in his favor (Realitatea.net 2012). Because of a constitutional artifice, which doesn't create harmony between the Romanian Constitution and the recommendations of the Venice Commission, Traian Basescu couldn't be dismissed through referendum due to quorum default. The percentage of the population who voted was 46.24% (Realitatea.net 2012). Being under the percentage of 50% +1 vote, the referendum was considered invalid according to the Romanian Constitution. Consequently Traian Basescu could keep the position of President of Romania until the expiring of his election mandate obtained in December 2009 (Vidu 2012). Although the referendum results were debatable as well as the differences of the Romanian Constitution in relation with the European recommendations from the Venice Commission, this study does not aim to argue on these facts.

During the first speech as newly reinstalled President, Traian Basescu had a virulent attack towards the media, this time expressly naming Antena3 from Intact Media Group. "Good people, you have the obligation to do an exercise, an exercise that the elected President of Romanians asks you to do: Don't watch 'Antennas' for a week!" (Mediafax 2012). Traian Basescu continued with the rhetorical question: "Is Antena3 here?"

#### **5.4. The EU as a guarantor of the media freedom**

When Romania and Bulgaria joined the European Union on the 1<sup>st</sup> of January 2007 they were considered insufficiently developed in several fields such as judicial reform as well as corruption and organized crime. Therefore the European Commission stated: "To smooth the entry of both countries and at the same time safeguard the

workings of its policies and institutions, the EU decided to establish a special <<cooperation and verification mechanism>> to help them address these outstanding shortcomings” (European Commission 2012). This way the CVM was created, a periodical report to measure the progress of the two countries.

The last CVM report issued by the European Commission was released on the 30<sup>th</sup> of January 2013 and has only 12 pages (European Commission 2013a). The report comes less than half a year later after the suspension of Traian Basescu followed by the referendum for his dismissal. Unexpectedly the report makes references to the Romanian media, but from only one perspective. It must be mentioned that in the previous CVM report issued on the 18<sup>th</sup> of July 2012, the media were not even once reminded.

Considering the explicit attention that the European Union has for the freedom and the pluralism of the media, the following part will focus on CVM report’s paragraphs referring to media.

“The Commission received numerous reports of intimidation or harassment against individuals working in key judicial and anti-corruption institutions, including personal threats against judges and their families, and media campaigns amounting to harassment” (European Commission 2013a:4).

“The Commission would also like to draw attention to the role of the media. There have been numerous examples of the media exercising pressure on the judiciary, as well as particular doubts whether the National Audiovisual Council is proving an effective watchdog” (European Commission 2013a:4).

It must be mentioned that for these assertions the document provides no information regarding clear examples of threats, pressures or any other facts that could confirm the allegations.

In the same document several recommendations for the Government are pointed out. Among these recommendations it can be found the one which explicitly refers to the media.

“Review existing standards to safeguard a free and pluralist media while ensuring effective redress against violation of individuals' fundamental rights and against undue pressure or intimidation from the media against the judiciary and anti-corruption institutions. The National Audiovisual Council should be assured of its effective independence, and play fully its role by establishing and enforcing a Code of Conduct in this regard” (European Commission 2013a:7).

While the Romanian mass media environment has among others, the previously shown characteristics, the European Union strives, at least in a declarative dimension, to keep a democratic balance. On the European Commission website under the Media Policies tab on the Media Freedom and Pluralism link it is stated: “The need for transparency, freedom and diversity in Europe's media landscape” and following this title, it can be read: “Freedom and pluralism of the media, including independent media governance, are key elements for enabling the exercise of freedom of expression, which constitutes one of the essential foundations of the European Union. The European Union's commitment to respect freedom and pluralism of the media, as well as the right to information and freedom of expression is enshrined in Article 11 of the Charter of Fundamental Rights, similar to the provision of Article 10 of the European Convention

for the Protection of Human Rights and Fundamental Freedoms” (European Commission 2013b).

Further, under the Media Policies tab, on the link Public consultation on media issues it is stated that “the European Commission seeks discussion on media freedom and pluralism, on the independence of audiovisual regulatory bodies, on the changing media landscape and borderless internet” (European Commission 2013c).

In order to accomplish these desiderates, the European Union has financed and offered support to the following independent organisms: the High Level Group on Media Freedom and Pluralism together with the Centre for Media Pluralism and Media Freedom, as well as to several other assumingly independent studies conducted under the European Commission’s guidance. The studies aimed to reveal a clear reflection upon the European situation regarding the mass media field, to analyse how the member states are applying the community’s resolutions and to elaborate a set of recommendations (European Commission 2013b). The most recent wide public visible action, which European Commission took, was to elaborate a program of online consultation for those interested in the current issues and reaffirmed the “core values of the European Union enshrined in Article 11 of the Charter of Fundamental Rights of the European Union” (European Commission 2013c). The second step within this action is to elaborate the “Green Paper - Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values”. This step aims to bring together stakeholders as well as viewers and Internet users in order to have a large mass of opinions and to touch a diverse range of opinions. The ultimate goal of the Green Paper is not to “pre-suppose any action, but in following up, the Commission might explore regulatory and policy responses, including self-

regulation” (European Commission, 2013c). The time period when the “online consultations” are supposed to be held is from 22/03/2013 to 14/06/2013, while for the Green Paper the period is from 24/04/2013 to 31/08/2013, according to the same source.

On the other hand the High Level Group on Media Freedom and Pluralism (HLG), which is also a part in the online consultations conducted by European Commission, was created in October 2011. The group has as highlighted members Neelie Kroes founder and Vice-President, while the chairman of the organization is Professor Vaira Vīķe-Freiberga the former president of Latvia. Other worth to be mentioned members are the professors Herta Däubler-Gmelin and Luís Miguel Poiares Pessoa Maduro together with Ben Hammersley. The study conducted by HLG had to cover issues, which the European Commission considered important to be analyzed. Further, HLG was asked to provide recommendation on the following aspects: limitations to media freedom arising from political interference (state intervention or national legislation); limitations to media independence arising from private and commercial interference; the question of the concentration of media ownership and its consequence for media freedom/pluralism and on the independence of journalists; existing or potential legal threats to the protection of journalists' rights and their profession in Member States; the role and independence of regulatory authorities; existing or potential measures in favor of quality journalism, ethics and media accountability, within the respective competences of national, EU and international authorities (European Commission 2013b).

In January 2013 HLG released their study “A free and pluralistic media to sustain European democracy” which has as motto: “The freedom and pluralism of the media

shall be respected. - Article 11.2 of the Charter of Fundamental Rights of the European Union”. The very first statement regarding the findings of the study refers at: freedom, pluralistic media and European democracy, continuing with what they consider threats for the previously enumerated terms.

The authors see the political influence and the economic pressures as first challenges that can diminish the media freedom and pluralism. Following these two factors HLG takes into consideration other issues such as: “the changing media landscape with new business models or the rise of the new media” (HLG, 2013:3). In order to avoid such cases HLG recommends: “The EU should be considered competent to act to protect media freedom and pluralism at State level in order to guarantee the substance of the rights granted by the Treaties to EU citizens, in particular the rights of free movement and to representative democracy. The link between media freedom and pluralism and EU democracy, in particular, justifies a more extensive competence of the EU with respect to these fundamental rights than to others enshrined in the Charter of Fundamental Rights” (HLG 2013:3). Thus the EU should assume its role of guarantor of the rights and freedoms over the member states. Meanwhile the free media have the role of catalyst for democracy as “the concept of media freedom has evolved in parallel to the fundamental human rights of freedom of conscience and of expression” (HLG 2013:10).

The EU has the obligation to take action in cases when the functionality of media is affected by laws as well as when the citizens are hindered to become engaged in public debate. The HLG strongly recommends that: “Media freedom and pluralism should play a prominent role in the assessment of accession countries. A free and pluralist media environment must be a precondition for EU membership” (HLG 2013:4). Having in

mind that according to HLG this should be an access condition for future member states, it is assumingly obvious that the current member states have the capacity to enforce these rules and regulations.

Another important recommendation of the HLG study is that the EU should take into consideration to be more pro-active in obtaining information and develop a more in depth knowledge and a better understanding of media as a perpetual changing field (HLG 2013:4).

The HLG summarizes the key finding and concludes with the following statement: “The HLG believes that the EU can and should, have a bigger role in supporting media freedom and pluralism in the EU and beyond. The recommendations in this report should be understood as an encouragement to develop the overall EU framework, ensuring that high quality media can continue to contribute to European democracy across the EU” (HLG 2013:8). The public space must be powered with information to achieve democracy, but the public should not overlook the fact that the media are information carriers and not truth holders. Mass media are mostly subjective and the authors citing Marshall McLuhan state, “The Medium is the Message” (HLG 2013:11). Therefore the media can have a personal interpretation of what is *Important* in various cases.

Just to enumerate several of the in depth challenges when the member states’ particularities were analyzed, HLG highlights the following: media legislation is implemented in a manner which creates confusion and can leave way of interpretation; libel/defamation laws which can possibly leave room for interpretation; media owners with connection and influence in the political environment; media ownership by ruling

politicians; no transparency in media ownership; conflicts of interest coming from too close connection between journalists and the business or political environment.

According to the same authors the EU already has an emergency leverage to pull in case of such challenges emerge. Therefore “the EU has an obligation to intervene directly with the country in question. *In extremis*, the EU can make use of Article 7 of the Treaty on European Union (TEU), which allows the Council, acting by qualified majority, to decide to suspend certain rights of a member state found in serious and persistent breach of EU values enshrined in the Treaty” (HLG 2013:18).

The Centre for Media Pluralism and Media Freedom (CMPF), the second independent body funded by the EU in order to research the independence of media within the EU, has elaborated in July 2009 its final report. The report intitulated: “Independent Study on Indicators for Media Pluralism in the Member States – Towards a Risk-Based Approach” with the motto: “To measure is to know – Lord Kelvin 1824-1907”, has as authors a group of researchers from three different academic institutes supported by the consultancy firm Ernst &Young Belgium. The academic institutes involved in the study are Katholieke Universiteit Leuven –ICRI, Central European University –CMCS and Jönköping International Business School – MMTC (European Commission 2013d).

CMPF highlights several key thematic perspectives while aiming to enhance the consciousness over the importance of freedom and pluralism in media. A selection of these key thematic perspectives could include: the freedom of expression and the right to information in Europe; national, EU and international legal frameworks, case-law and practices; diversity of content and information sources; impact of new technologies, new

media and new business models on media freedom and journalistic activities on the one side and on pluralism, governance and competition on the other; ethics and trust in journalism including news media professionals' rights and quality journalism; governance of publishing and journalistic activities, including codes of conduct for journalists; global dimension of media pluralism; media, politics and the democratic process (CMPF 2013).

In the Executive Summary of the final report it is stated that: "The objective of the study is to develop a monitoring tool for assessing risks for media pluralism in the EU Member States and identifying threats to such pluralism based on a set of indicators, covering pertinent legal, economic and socio-cultural considerations" (CMPF 2009:viii).

The tool developed by CMPF and called The Media Pluralism Monitor (or MPM), has according to the European Commission website (European Commission 2013d) among others the following characteristics: adopts a broad notion of media pluralism, while in mature democracies media pluralism encompasses political, cultural, geographical, structural and content related dimensions; plays important roles in creating pluralism and a wide range of media types and channels/titles, as at the same time it recognizes different policies and regulatory approaches towards certain types of media; it is designed as a diagnostic tool for obtaining a broad understanding of risks to media pluralism in a Member State, but does not set policy responses.

Having in mind the two studies conducted under the European Commission and elaborated by the High Level Group on Media Freedom and Pluralism respectively the Centre for Media Pluralism and Media Freedom, it is easy to assume that the EU has the

set of recommendations as well as the tools to check and implement the requirements in order to have a free and pluralistic media environment.

## **6. Conclusions**

The European Union legislation is to a large extent different from state to state regardless the European goal for setting a common standard. It is obvious that suveran states can have their own rules therefore decide for their inland legislation. Nevertheless the legislation should have common features and for this reason the EU regulations, as a supreme political organization, should prevail over the statal regulations.

Taking the particular case of Romania, member of the EU since the 1<sup>st</sup> of January 2007, it could be observed more into depth how the mechanisms differ. With the mass media highly connected to what mass communication means, it is understandable why this enormous power needs to be carefully balanced. Having in mind that the political power is the one which creates the rules, it could be assumed that the mass media is controled to a certain extent. It is important though, to know to what extent this control guaratees the democratic balance.

The Romanian mass media landscape is mainly composed of a few big players. It is proved and in the same time self addmited that the leaders of these corporations make “their own games”, but they are also connected to the political class, thus the ruling class. Taking the case of the Romanian National Television (TVR), the entire institution is officially subordinated to the Romanian Parliament.

A different kind of “Gatekeeper” is represented by RCS & RDS, the largest operator of cable television in Romania with most of its subscribers being captive subscribers. RCS & RDS can easily decide which channels are broadcasted through their cable network.

The National Council of Audio-visual (CNA) represents the “watch dog” of the Romanian mass media. The council is the only authority for regulation in the field of audio-visual programs, while the parliament controls it. In the same time the members are proposed and elected only through political settlement.

In 2010 The National Strategy of Defense was a document elaborated by the CSAT (The Superior Council of Country Defense), which put the media on the list of vulnerabilities. It is hard to understand how the media could represent vulnerability consequently how it could enhance external factors that threat the state’s security.

Romanian researchers have shown in many cases how tight the connections between the political class and the media owners are. They demonstrated how the influence tilts the balance in concordance with the personal interest and how the diversity consists in only one direction. Most of the media support the president Traian Basescu while only one media corporation opposes his views. Even though most of the media are favorable to the president, his last confrontation with the popular vote could be characterized as being disastrous, only 11.15% of the votes were in his favor. The first speech after this democratic defeat consisted in an attack towards his media opponents. He asked the people not to watch Antena 3 witch can be regarded as pursue of obtaining a unanimous favorable public exposure. Arguing in mass communication terms, “manipulation” would probably be the most suitable word to describe the situation of a unanimous favorable public exposure.

Thinking of the possibility of an EU country to constrain the freedom of mass media, it seems to be rather tempting for the politics environment to somehow subordinate the power of mass media. Romania was not the only country within the

European Union, which had disputable political actions towards mass media. Hungary also had two law projects in 2010-2011, viewed as hindering the freedom of media. In this case the EU, shielded by the communitarian legislation and regulation, took immediate action against the Hungarian - media laws. They publicly condemned these laws. Judging by the reactions that the other states or at least their Brussels representatives had, it could be assumed that the member states expressed their concern and such behavior was not accepted.

Although the EU constantly pursues an improvement for its media environment a double standard can be observed. After the presidential attack towards a part of the Romanian media, the first Cooperation and Verification Mechanism report seems to admonish the media but not the Presidential Institution. It was impossible to find proves for any other situations when the EU took side of the Romanian media in situations of constraining. Put into balance with the situation of the Hungarian – media laws, the EU’s reaction is completely opposite in this case. Therefore the other EU states all together forming the political construction called EU, have reactions, but these reactions are not unitary thus not effective.

Regarding the mechanisms that could be used in constraining the freedom of media it can be argued around a multitude of factors involved in the process. For example it depends on personal interest of those in power as well as on the economic and business environment. It also depends on how effective the relation of power is between the state’s institutions. In Romania’s case the president was suspended from office due to interfering in other areas of power which constitutionally were not under his attributions. Therefore the balance of power between the institutions became uneven.

Many other questions could be raised starting from this specific situation. Such questions could be: “Why does the EU have a double standard?” or “If the EU has a double standard could be argued about an *European standard* at all? ” It could be of interest to further research if similar situations are found in other EU countries and if the adjustment mechanisms of the EU are viable.

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