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A thick, hand-drawn style yellow outline map of Romania, which serves as a background for the main title text.

# **MEDIA CAPTURE MONITORING REPORT: ROMANIA**

**MEASURING COMPLIANCE  
WITH THE EUROPEAN  
MEDIA FREEDOM ACT**

OCTOBER 2024

# MEDIA CAPTURE MONITORING REPORT: ROMANIA

The International Press Institute and the Media and Journalism Research Center have partnered up to produce the Media Capture Monitoring Report, an annual report to measure media capture in Europe and the degree to which Member States meet new EU regulation to combat the problem.

In May 2024 the European Media Freedom Act (EMFA) came into force and Member States are required to enact reforms to align with the new regulation.

The reports focus on the EMFA elements directly addressing media capture, namely, the independence of public service media and of media regulators, the misuse of state funds to influence media, and ensuring ownership transparency and media pluralism.

The reports examine the standards prescribed by law and how they are currently implemented in practice. They set out the areas of reform needed to bring each country into line with EMFA while also making recommendations for where reform can go further.

The reports are an important tool for media rights groups and national policy makers to guide reform and monitor the degree to which Member States are meeting their obligations.

For the first year a group of seven EU Member States have been selected for the pilot studies including Bulgaria, Finland, Greece, Hungary, Romania, Poland and Slovakia.

The project is a part of the Media Freedom Rapid Response, a Europe-wide mechanism which tracks, monitors and responds to violations of press and media freedom in EU Member States and Candidate Countries. The project is co-funded by the European Commission.

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# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	<b>4</b>
Independence of media regulators	4
Independence of public service media	4
Misuse of state funds to influence media output	5
Media pluralism and political/state influence over news media	5
<b>ANALYSIS</b>	<b>7</b>
<b>INDEPENDENCE OF MEDIA REGULATORS</b>	<b>7</b>
Summary	7
Legal and operational independence	7
Composition of the regulator's board	8
Independence of the regulator's members	8
Financial autonomy	8
Tasks and accountability	9
Appeal mechanisms	10
Power to request information	10
Independent monitoring of the regulator's activity	10
<b>INDEPENDENCE OF PUBLIC SERVICE MEDIA</b>	<b>11</b>
Summary	11
Editorial and operational independence	12
Legal provisions guaranteeing plurality of information	12
Governance bodies: composition	13
Governance bodies: appointment	14
Governance bodies: term	14
Governance bodies: dismissal conditions	15
Funding	15
<b>MISUSE OF STATE FUNDS TO INFLUENCE MEDIA OUTPUT</b>	<b>18</b>
Summary	18
State funding spending: legal provisions, criteria for distribution and tender procedures	19
Transparency of state media contracts	22
Monitoring state advertising spending	22
<b>MEDIA PLURALISM AND POLITICAL/STATE INFLUENCE OVER NEWS MEDIA</b>	<b>23</b>
Summary	23
Transparency: legal requirements	23
National media ownership databases	25
Assessment of media market concentrations	25
Notification of media market concentrations	25
Impact of media market concentration on media pluralism	26
Impact of media market concentration on editorial independence	28
<b>RECOMMENDATIONS</b>	<b>30</b>
<b>WHAT IS NEEDED TO CAPTURE-PROOF THE ROMANIAN MEDIA</b>	<b>30</b>
Independence of media regulators	30
Independence of public service media	31
Misuse of state funds to influence media output	32
Media pluralism and political/state influence over news media	32

## Independence of media regulators

Despite the independence guarantees set out in the legislation, the National Audiovisual Council (CNA), Romania's media regulator, has consistently demonstrated throughout the years a high level of political influence. Many members, including the current President, have previously been affiliated with political parties or had other political connections.

In the Romanian media environment, characterised by an omnipresent, cliquish relationship between politicians and media owners and journalists, such close personal connections pose a significant risk to the independence of the regulatory body. In an audiovisual market that is closely intertwined with the political landscape, the CNA frequently fails to fulfil its mandate of defending the public interest. This is evidenced by a tendency to be slow and reluctant to impose appropriate sanctions. Consequently, the regulator is perceived as a politicised entity that protects the interests of corrupt media moguls, which has a significantly detrimental impact on its credibility and authority.

- Legislation in line with EMFA provisions: **Yes**
- Effective independence: **No**

## Independence of public service media

Despite the legal framework that defines public broadcasters as "autonomous" and "editorially independent" institutions, both the public radio (the Romanian Radio Broadcasting Company, SRR) and the public television (the Romanian Television Company, TVR) have been subjected to frequent allegations of politicisation, censorship, questionable management practices, internal corruption, and financial mismanagement over the course of their three-decade democratic history. These allegations have had a particularly detrimental impact on the public perception and credibility of the two institutions, particularly that of the television operator.

The two public broadcasters (TVR and SRR) have encountered a number of significant challenges over the past 15-20 years. These include the impact of technological developments and the emergence of new media actors on the media market, economic crises, political instability, and the desire of politicians to exert control over the media.

TVR has been the most adversely affected, having failed to adapt to the new market shifts and consequently losing its relevance in the overall media market. Despite the politicisation of the institution, it was still able to provide some quality content, with its news and current affairs programmes maintaining a reasonable balance and impartiality. Nevertheless, its performance is below expectations, with an audience share that has declined significantly to less than 5%. Conversely, TVR enjoys a greater degree of editorial independence than the majority of private television channels, particularly those focused on news.

Public radio enjoys a more advantageous position than its television counterpart. The station's larger audience share positions it as a genuine alternative to commercial radio stations. As with public television, the content of the public radio station is aligned with its public mission, providing relevant news, debates and reports on issues or areas not covered by commercial radio stations. However, as with TVR, there is a notable absence of bold, critical journalism directed towards the political and economic powers that be, due to the historically embedded obedience within the public radio institution.

- Legislation in line with EMFA provisions: **Partially**
- Effective independence: **No**

### Misuse of state funds to influence media output

Romanian legislation provides a framework designed to ensure transparency, fairness, free competition and accountability in public procurement of goods and services. However, the current legal framework does not provide the necessary guarantees of transparency and fairness in the allocation of state advertising funds to media outlets. It has been observed that public authorities, particularly at the local or regional levels, have a tendency to award public advertising in a discriminatory, non-transparent, and preferential manner to media outlets that align with their political or financial interests. To avoid the restrictions imposed by public procurement legislation, authorities exploit legal loopholes that permit them to disburse state advertising funds without a tender.

One such method is the use of intermediaries, namely public companies owned by the same authorities. Such practices not only represent a significant misuse of public resources, but they also have a substantial impact on the local media market, driving the consolidation of media ownership and limiting the viability of independent media outlets. In addition to this form of financing, state funds are allocated to media outlets through political party spending. This is a legally permitted form of state subsidy used by political parties for the promotion of their activities in the media, among other purposes.

The current system of allocating public funds to media outlets has the effect of further commercialising the media landscape in Romania, creating a number of dependencies and distorting the market.

- Legislation in line with EMFA provisions: **No**
- Fair and transparent allocation of state funds to media: **No**

### Media pluralism and political/state influence over news media

The Romanian media market is characterised by high diversity, yet there are concerns about the level of political polarisation, transparency of ownership, and the concentration of ownership, which could have an adverse effect on the

market. Concurrently, a proliferation of new independent media outlets has occurred, particularly in the online domain.

However, the market fundamentals are not robust. A significant number of outlets are dependent on revenue generated by their owners, who use the media as a means of advancing political or business interests. In other instances, media outlets are used directly by political parties or state entities, as previously outlined. The apparent diversity of the television news offering masks the political affiliation of the majority of those who control these outlets, whether directly or indirectly.

The current regulatory framework governing transparency of media ownership is limited to the broadcasting market. There are currently no regulations in place governing transparency of media revenues. There is no legal obligation for media companies to disclose information regarding revenue generated from public funds or state advertising.

The latest concerns regarding market concentration relate to the anticipated convergence and merger of media outlets and large telecommunications companies. This is because powerful telecommunications companies can leverage their position to protect the media outlets they control.

- Legislation in line with EMFA provisions: **No**
- Effective media pluralism: **No**

## INDEPENDENCE OF MEDIA REGULATORS

*This section discusses how Article 30 of the AVMSD (Directive 2010/13/EU) is implemented.*

### Summary

In the Romanian media environment, the close relationship between politicians, media owners and journalists presents a significant risk to the independence of the National Audiovisual Council (CNA), Romania's media regulator. Such situations occur particularly when the Council addresses editorial infringements related to political issues, with some members voting in accordance with their political affiliation or affinity.

In an audiovisual market that is closely intertwined with the political landscape, the CNA often struggles to fulfil its mandate of defending the public interest. It is slow to apply sanctions that are commensurate with the offence in question. Even when the Council does take action against serious legal breaches, the sanctions imposed are insufficient to deter such editorial practices. This tacit encouragement of broadcasters to breach legal provisions, professional values and the public's right to free, balanced and fair information is found unacceptable by experts and observers. The CNA's practice of applying a single sanction for a broadcaster's multiple and repeated infringements has been the subject of particular scrutiny.

Consequently, CNA is regarded as a politicised entity that safeguards the interests of corrupt media proprietors, which has had a significantly detrimental effect on its credibility and authority.

### Legal and operational independence

The National Audiovisual Council (CNA), the national audiovisual regulatory body in Romania, is an autonomous institution, accountable to Parliament. It functions under the framework of Law no. 504/2002<sup>1</sup> (the Audiovisual Law), which defines its mission as being to act as "the guarantor of the public interest in the audiovisual market".<sup>2</sup>

In practice, the legislative provisions are not sufficient to guarantee the independence of the CNA. The organisation has been subject to political interference for decades, which has had a detrimental impact on its public reputation and credibility. It is notable that a controlling political culture, which seeks to exert influence over public institutions, is still prevalent across the political

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<sup>1</sup>Legea audiovizualului nr. 504/2002, cu modificările și completările ulterioare (in Romanian; hereafter Audiovisual Law).

<sup>2</sup>Audiovisual Law, Art. 10.

spectrum. The CNA has not been exempt from such practices.

## Composition of the regulator's board

The CNA, the main governance structure of the regulator, comprises 11 members, all of whom are approved by Parliament. Six members are nominated by the two chambers of Parliament, two by the Presidency, and three by the Government.<sup>3</sup> In accordance with political agreements, representatives from all political parties represented in Parliament may be nominated.<sup>4</sup> The opposition has consistently been represented on the Council. To prevent the Council from being controlled by the political party in power, the six-year mandates of Council members are staggered to avoid an overlap with the political power term.

The law does not clearly define the performance or technical criteria to be used for the evaluation of the CNA's annual activity report, which leaves the authority open to political pressures. In the event that Parliament does not approve the CNA's annual report, the CNA President is automatically dismissed. The Council then requests that Parliament propose a new candidate from among its members for the CNA President position. This legal provision leaves the CNA President under a constant threat of dismissal, which could result in political control of the position.

## Independence of the regulator's members

The regulatory framework is explicit in stating that members of the CNA must refrain from any political or commercial affiliation during their tenure. In the event of a conflict of interest, the member in question is removed from the Council by right and their position becomes vacant. It is then filled by a substitute, elected through the same parliamentary decision as the full member.<sup>5</sup>

## Financial autonomy

The Audiovisual Law does not provide the budget for the CNA. Instead, the CNA's budget is set by the government through the annual national budget law, which is then adopted by parliament.

The CNA's annual budget is publicly available, and the institution publishes annual activity and budgetary reports. The budget remains relatively stable, but it is insufficient to guarantee the effective fulfilment of the CNA's legal obligations. In 2023, the CNA's total budget was approximately €3.4 million.<sup>6</sup> The institution must

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<sup>3</sup>Audiovisual Law, Art. 11.

<sup>4</sup>Audiovisual Law, Art. 13.

<sup>5</sup>Audiovisual Law, Art. 12.

<sup>6</sup>Information collected from CNA's annual reports.



update its monitoring systems and equipment and increase the number of expert employees, particularly given the new regulations that place additional responsibilities on it, mainly in relation to online content.

Furthermore, the CNA is experiencing a shortage of human resources. For instance, the number of monitors at its disposal is 31, which is inadequate for a country with an overcrowded audiovisual market. By the end of 2023, the CNA had filled 118 of the 153 available positions.<sup>7</sup>

## Tasks and accountability

The legislation is precise in defining the CNA's mandate and competencies. In accordance with the law, the CNA is responsible for monitoring the programmes of broadcasters operating in Romania to ensure compliance with audiovisual norms and legislation.

According to the Audiovisual Law, CNA is entitled to establish its own bylaws. The most comprehensive secondary legislation adopted by the Romanian regulator is the Regulatory Code of Audiovisual Content.<sup>8</sup> Furthermore, CNA issues other specific regulations, such as those pertaining to the coverage of election campaigns in the audiovisual media.

The Audiovisual Law has been updated to reflect the latest version of the Audiovisual Media Services Directive (AVMSD). Due to an administrative error, the amended law expanded the CNA's authority to encompass all users of video sharing platforms, conferring upon the regulator the ability to impose sanctions on users.<sup>9</sup>

The CNA is the public institution responsible for vetting and granting audiovisual licences. Broadcasting licences, which permit broadcasters to utilise frequencies and technical infrastructure, are issued by the telecom regulator, the National Authority for Administration and Regulations in Communications (ANCOM).<sup>10</sup> The two regulatory authorities collaborate closely throughout the licensing process.

When formulating detailed regulations, the CNA adheres to a long-standing practice of transparent consultation with a diverse range of stakeholders, including broadcasters, civil society, and professional associations. This practice has been well-received by all parties, as it enhances transparency.

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<sup>7</sup>Information collected from CNA's annual reports.

<sup>8</sup>Decision no. 220, dated February 24th, 2011 regarding the Regulatory Code of the Audiovisual Content.

<sup>9</sup>ActiveWatch, "Propuneri amendamente - proiect legea audiovizualului" (Proposals amendments-the Audiovisual Law project), 10 June 2024.

<sup>10</sup>See more [here](#).

## Appeal mechanisms

CNA decisions may be appealed in court, and broadcasters have exercised this right with some success. In 2023, the Council was involved in 192 legal cases, 106 of which were settled by the courts.<sup>11</sup> Approximately 10% of the legal cases have resulted in favourable outcomes for various media outlets that have challenged CNA's decisions.

The majority of decisions imposed by CNA, primarily in the form of administrative fines, have been upheld by the courts, while others have been partially confirmed. Further litigation is currently pending or in progress. Two media outlets have filed appeals with the Romanian Constitutional Court, contesting the decisions made by CNA.<sup>12</sup> To date, there has been no request for EU judicial review of any of the decisions.

## Power to request information

CNA is entitled to request information and data ex officio in the event that other public authorities make a request in that respect or if citizens file a formal complaint. Furthermore, the Council is empowered to issue urgent requests to the National Institute for Research & Development in Informatics-ICI Bucharest<sup>13</sup> for the purpose of obtaining information regarding individuals who may be in violation of audiovisual legislation or secondary legislation, specifically those who own .ro domain names.

## Independent monitoring of the regulator's activity

The CNA's meetings are open to the public and the proceedings are broadcast on the institution's Facebook page. The decisions of the CNA are published on its website. All monitoring reports drafted by the CNA are sent to the broadcasters, who are invited to provide their own commentary on the conclusions presented.

There is no independent or parliamentary report on the activity of CNA, with the exception of the annual report drafted and submitted by CNA to Parliament. It is evident that Parliament does not prioritise monitoring CNA's activity unless there are substantial interests at stake, such as the appointment or removal of CNA's members or its President. Local media NGOs, such as ActiveWatch and the Center for Independent Journalism (CIJ), conduct regular monitoring of the institution's activity, with a particular focus on its enforcement of the law. However, they lack the financial resources to publish the findings of their monitoring on a regular basis.

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<sup>11</sup>CNA Annual Report for 2023.

<sup>12</sup>CNA Annual Report for 2023, *cit.*

<sup>13</sup>See more [here](#).

## INDEPENDENCE OF PUBLIC SERVICE MEDIA

*This section discusses how Article 5 of the EMFA is implemented.*

### Summary

Despite the legal framework that defines public broadcasters as “autonomous” and “editorially independent” institutions, both SRR and TVR have faced persistent challenges in maintaining their reputation and credibility, being subject of frequent allegations of politicisation, censorship, questionable management practices, internal corruption, and financial mismanagement, particularly within the context of public television.

The two public broadcasters (TVR and SRR) have experienced rather disparate developments over the past 15-20 years.

TVR has been the most adversely affected, having failed to adapt to the new market shifts and thereby losing its relevance in the overall media market. Despite broadcasting 14 channels, including regional and international ones, TVR has failed to attract a significant audience, with most channels recording below 10,000 viewers per day, a poor record in a country of 19 million inhabitants. Market research data<sup>14</sup> indicates that in 2023, TVR1 and TVR2, the company’s flagship channels, had a combined audience of 75,000 viewers out of a total of 3.039 million television viewers. For context, the most-watched channel, Pro TV, had an audience of 600,000. TVR's overall market share is below 3%.

Public radio is in a more advantageous position than its television counterpart. Its larger audiences position the station as a genuine alternative to commercial radio stations. Radio România Actualități, the station’s flagship offering, is currently ranked third at the national level, with an audience of almost 1.7 million listeners out of a total of 11.24 million.<sup>15</sup>

But even in such rather dramatic circumstances for public television, the politicians’ appetite for control does not seem to diminish. Upon the formation of a new political majority in Parliament, MPs appear to view it as their responsibility to appoint their own individuals to leadership positions within public television and radio. This practice is particularly prevalent among the country’s two main political parties, the Social Democratic Party (PSD) and the National Liberal Party (PNL), now serving as coalition partners in government.

Finally, the public news agency Agerpres continues to be a significant player in the Romanian media landscape, leveraging its extensive resources, including a

<sup>14</sup>Iulia Bunea, “[Audiențele anului 2023...](#)” (The audience shares in 2023...), Pagina de Media, 5 January 2024.

<sup>15</sup>Iulia Bunea, “[Cele mai ascultate posturi de radio în această primăvară...](#)” (The most listened to radio stations this spring), Pagina de Media, 28 May 2024.

network of correspondents covering the entire country. In contrast to public broadcasters, the fate of Agerpres' management does not hinge on the parliamentary vote on its annual report. In 2017, efforts to amend the legislation governing Agerpres, which would have undermined the management's autonomy, were ultimately unsuccessful.

## Editorial and operational independence

### Public service media

The law regulating the public broadcasters states that the public radio (SRR) and public television (TVR) are “autonomous” institutions, “editorially independent”<sup>16</sup>, and “their programmes are protected from any interference by public authorities, as well as from the influence of any parties, socio-political formations, trade unions, commercial and economic bodies or groups of pressure”.<sup>17</sup>

Public service broadcasters are accountable to Parliament. The management is represented by three bodies whose responsibilities are rather poorly established by the law: the Council of Administration, the President-General Manager and the Executive Committee.

### The national news agency

The legislation regulating the national press agency Agerpres<sup>18</sup> defines its status as “an autonomous public institution of national interest, with legal personality, editorially independent, under the control of the Parliament”.<sup>19</sup>

## Legal provisions guaranteeing plurality of information

### Public service media

There are legal provisions guaranteeing plurality of information on public service media in Romania. According to the law regulating them, public service broadcasters have a legal mandate to “ensure pluralism, free expression of ideas and opinions, free communication of information, as well as to correctly inform the public”.<sup>20</sup> The public broadcasters are distributed for free, and available in all households in Romania. All public television channels are on the must-carry list.<sup>21</sup>

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<sup>16</sup>Legea nr. 41 /1994 privind organizarea și funcționarea Societății Române de Radiodifuziune și Societății Române de Televiziune (in Romanian; hereafter PSB Law), Art. 1

<sup>17</sup>PSB Law, Art. 8.

<sup>18</sup>Legea nr. 19/2003 privind organizarea și funcționarea Agenției Naționale de Presă AGERPRES (in Romanian; hereafter Agerpres Law).

<sup>19</sup>Agerpres Law, Art. 1.

<sup>20</sup>PSB Law, Art. 3.

<sup>21</sup>See more [here](#).

## The national news agency

There are legal provisions guaranteeing plurality of information on the Romanian national news agency. Article 3.2 of the law regulating the national press agency Agerpres states that “the information must be presented and transmitted faithfully, without any influence from public authorities or other legal entities under public or private law”.<sup>22</sup>

## Governance bodies: composition

### Public service media

There are no legal guarantees in national law to ensure that the procedures for the appointment and the dismissal of the head of management or the members of the management board of public service media providers aim to guarantee the independence of these outlets.

According to the law, the Councils of Administration of the two public broadcasters are composed of 13 members each. They are appointed by Parliament upon nomination by the following institutions: political parties in Parliament (eight seats), the Government (one seat), the Presidency (one seat) and national minorities group in Parliament (one seat), plus two representatives of the respective broadcaster, elected by the employees. The eight members nominated by Parliament are distributed according to the political representation, including representatives of the opposition.<sup>23</sup>

In addition, Parliament is vested with the legal authority to appoint the President of the Council in both institutions, following nomination by the Council members. The Presidents of the SRR and TVR also serve as General Managers, who are heads of the Executive Committees responsible for the day-to-day operations of the two broadcasters. Another potential legal vulnerability is the consolidation of the President's and General Manager's powers into a single position. This structure facilitates government control of the institution, as it requires pressure to be applied to a single individual: the President-General Manager.<sup>24</sup>

Furthermore, the dismissal mechanism of the Council, resulting from the rejection of the annual report submitted to Parliament, is employed by politicians to exert pressure and control over the two institutions.

## The national news agency

Agerpres is managed by an Executive Committee, headed by a General Manager who is selected by the Prime Minister and confirmed by Parliament following the

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<sup>22</sup>Agerpres Law, Art. 3.2.

<sup>23</sup>PSB Law, Art. 19.

<sup>24</sup>PSB Law, Art. 18-23.

approval of the media and culture commissions. The General Manager's term of office is five years, with the aim of avoiding any overlap with the parliamentary cycle. This approach helps to ensure that the General Manager is not subject to political pressure from the ruling party.<sup>25</sup> Furthermore, the General Manager is protected from dismissal if Parliament rejects Agerpres' annual report. This provides the news agency's management with greater independence from political forces and greater institutional stability.

## **Governance bodies: appointment**

### **Public service media**

The appointment of members of the Councils of Administration of public television and public radio is conducted through public hearings held by the media and culture commissions of the Parliament. However, this does not provide assurance regarding the professionalism, integrity or independence of the individuals nominated. In practice, the nominations are the result of behind-the-scenes political negotiations.

### **The national news agency**

The members of the Agerpres Executive Committee are selected from managerial positions that are open to competition. The Agerpres Executive Committee comprises the General Manager, the Deputy Managers and the Managers of the Technical and Financial Departments.<sup>26</sup> In accordance with the law, they are not permitted to have any political affiliation.

## **Governance bodies: term**

### **Public service media**

The term of office for members of the Councils of Administration responsible for public television and public radio is four years.<sup>27</sup> However, there is often a discrepancy between the end of a mandate and the end of the parliamentary cycle. This is because the possibility of dismissal is high, particularly in the case of public television, due to the frequent changes in the political landscape.

### **The national news agency**

The General Manager of Agerpres serves a five-year term, which does not coincide with the parliamentary cycle.<sup>28</sup>

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<sup>25</sup>Agerpres Law, Art. 14-17.

<sup>26</sup>Agerpres Law, Art. 14.

<sup>27</sup>PSB Law, Art. 20.

<sup>28</sup>Agerpres Law, Art. 14.

## Governance bodies: dismissal conditions

### Public service media

There are no legal requirements for justifying the dismissal of a director or member of the board of directors of a public service media provider.

The dismissal of the Council of Administration of public television and, respectively, public radio represents the primary mechanism by which politicians exert pressure and control over the two institutions. In accordance with the legislation, a vote by Parliament to reject the annual reports submitted by the two institutions will result in the immediate dismissal of the Council of Administration.<sup>29</sup>

This legal provision subjects the management bodies to a constant state of vulnerability, particularly when there are significant shifts in political power, such as a change in the majority in Parliament. The provision has been misused on numerous occasions over the past three decades, resulting in frequent changes to the Council of Administration with the formation of new parliamentary majorities. The absence of specific, measurable and objective criteria to assess the performance of public broadcasters allows for the rejection of annual reports based on arbitrary criteria that suit the interests of politicians in power.

The timing of the parliamentary debate and vote on the annual reports has, on occasion, been aligned with the implementation of political strategies. For instance, it is not uncommon for Parliament to postpone the debate on the reports if there is no appetite for changing the leadership of the public broadcasters or if the majority wishes to maintain the leadership that has been appointed. In some cases, the annual reports were discussed and voted on two or three years after they had been submitted.

### The national news agency

The legislation regulating the national news agency Agerpres clearly sets out the grounds on which its General Manager can be dismissed. These include resignation, inability to perform the duties of the role for a period of more than six months, a final conviction for criminal activity, and a situation of incompatibility as defined by law. There is no other legal recourse available to Parliament that would permit the dismissal of Agerpres' General Manager.

## Funding

### Public service media

In 2016, the funding mechanism of the two public broadcasters was revised.<sup>30</sup> The

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<sup>29</sup>PSB Law, Art. 46.

<sup>30</sup>PSB Law, Art. 39-40.

previous funding system, based on income from a licence fee paid by the country's households, was replaced with a state budget allocation. The change in funding model has increased the vulnerability of public television and radio institutions to political influence.

The financial allocation from the state budget is calculated based on a flat tax per capita, with separate calculations for each institution. Despite the considerable financial support allocated to these two institutions within the context of the Romanian media market, they continue to express concerns regarding the adequacy of funding to meet their operational costs.

No irregularities have been identified in the state aid provided to public service media providers in Romania.

The two institutions also generate income from advertising sales, though these are relatively modest amounts, particularly in the case of TVR. No evidence has been found of any access restrictions imposed by either institution on their advertising time. The specific details regarding the tariffs or contracts are not publicly available. However, both institutions do include the total income generated from commercial advertisements in their annual reports.

With a budget of approximately €100 million, of which €83.5 million is provided by the state budget<sup>31</sup>, TVR's market performance is significantly below expectations in a market where the total TV market in Romania is estimated to be worth approximately €405 million in 2024. TVR incurred a loss of €3.4 million in 2023.<sup>32</sup>

### The national news agency

The budget of Agerpres is primarily funded by the state budget (approximately €5 million in 2022), with additional revenue generated from its own activities (€650,000).<sup>33</sup> In comparison to its primary competitor, the privately owned News.ro, Agerpres has a distinct competitive edge in terms of resources, including personnel and financial backing.

### Independent monitoring mechanisms

There are no independent authorities or bodies or mechanisms free from political influence that monitor the following aspects related to the public service broadcasters in Romania: their editorial/operational independence, the provision of plurality of information and opinions, the procedure of appointment and dismissal of their head of management or their members of the management board, and their funding procedure.

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<sup>31</sup>Simona Cârlogea, "[TVR, cu audiențe infime, 2.200 de angajați și buget 83 milioane de euro, vrea și mai mulți șefi: 90 \(nouăzeci\)](#)," (TVR, with tiny audiences, 2,200 employees and a budget of 83 million euros, wants even more bosses: 90), 15 December 2023, Radio Europa Liberă.

<sup>32</sup>According to [data from TVR](#).

<sup>33</sup>Agerpres, "[Raport anual 2022](#)" (in Romanian).



There are instances when programs or editorial practices of the public broadcasters breach the audiovisual regulations, but they are rare and bear no resemblance to the practices of some private broadcasters. The sanctions applied by CNA are public and available on its website.

The Romanian Court of Accounts conducts an annual review of how public broadcasters manage their budgets. However, this is largely an auditing process that is applied to all state-run companies in the country. The results of their audits are made public.

## MISUSE OF STATE FUNDS TO INFLUENCE MEDIA OUTPUT

*This section discusses how Article 25 of the EMFA is implemented.*

### Summary

Romanian legislation provides a framework that aims to ensure transparency, fairness, free competition and accountability in public procurement of goods and services. The primary document in this regard is the Law on Public Procurement, which was adopted in 2016. The National Agency for Public Procurement (ANAP)<sup>34</sup>, a public body, is responsible for ensuring the legality, transparency and efficiency of public procurement. Another entity involved in public procurement is the National Council for Solving Complaints (CNSC), which provides a forum for challenging public procurement decisions.<sup>35</sup>

The existence of this legal framework, however, does not ensure transparency and fairness in the process of awarding state advertising funds to media outlets. Public authorities, particularly at local or regional levels, made a practice of doling out public advertising in a discriminatory, non-transparent, and preferential manner to media outlets that favour their political or financial interests. To avoid restrictions imposed by public procurement legal provisions, authorities use legal loopholes that allow them to disburse state ad funds without a tender, for example by using intermediaries - authorities' subordinated companies.

Such practices represent a significant misuse of public resources and a distortion of the local media market, favouring compliant media outlets and limiting the viability of independent media. The content published as part of these state advertising deals is frequently designed to promote high-ranking officials in local state bodies. Furthermore, state advertising is employed to prevent the publication of critical content regarding these officials and their institutions.

In addition to that form of financing, state funds are funnelled to media outlets through political party spending, a form of state subsidy legally used by political parties to promote their activities in the media, among other purposes.

All these patterns of distributing public funds to the media further instrumentalise the media outlets, creating numerous dependencies and badly distorting the media market in Romania.

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<sup>34</sup>See [here](#).

<sup>35</sup>See [here](#).

## State funding spending: legal provisions, criteria for distribution and tender procedures

The Law on Public Procurement was enacted in 2016<sup>36</sup>, following a period of significant legislative reform over the past 25 years.

In accordance with the Public Procurement Law, all public procurement of goods or services must be conducted through a defined set of procedures. These include the publication of an announcement of intention, followed by an announcement of participation, along with comprehensive documentation of the technical and financial specifications of the goods or services to be purchased.

All of the aforementioned details must be made public on various platforms, depending on the circumstances. This may include the institution's website, media outlets, or Seap.ro, the official government platform that hosts data about public procurements.<sup>37</sup> Once the tender process is complete, the public authority is legally required to publish an announcement of the award, including details of the procurement contract signing.

In practice, public authorities, especially local or regional authorities, tend to distribute public advertising in a discriminatory, non-transparent and preferential manner to media outlets that serve their political or financial interests. The challenging economic context of the local media market, where only a limited number of outlets benefit from nationally distributed advertising contracts, makes local media players highly dependent on income from local authorities, either through advertising contracts or through other services such as promotional materials or subscriptions. Local media owners have reported instances where the content published as part of advertising contracts is not labelled as such.<sup>38</sup>

The law allows such contracts to be awarded directly, without a public tender, if their value is below the threshold set by the law, which is approximately €35,000 (depending on the local currency exchange rate).<sup>39</sup> However, there is an obligation to publish a notice of intention and a notice of award for this threshold. Authorities may award advertising contracts directly, without prior notice, if the amount is less than €1,800. This amount can represent a significant income by local media market standards, especially if the media outlet benefits from several similar contracts. This allows politicians or managers of public authorities to award them preferentially, based on subjective criteria, to friendly media outlets.

Such practices not only represent a waste of public resources, but also have the effect of distorting the local media market, with the result that media players who do not serve the public interest are favoured. Independent media outlets that

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<sup>36</sup>[Legea nr. 98/2016 privind achizițiile publice](#) (in Romanian; hereafter Public Procurement Law).

<sup>37</sup>See [here](#).

<sup>38</sup>Cristina Lupu, "[Starea mass-media din România în anul super-electoral 2024](#)" (The state of mass media in Romania in the super-election year 2024), Center for Independent Journalism Romania, 2023.

<sup>39</sup>See Public Procurement Law, *cit.*

adhere to ethical standards and pursue their journalistic mission are at disadvantage, facing challenging economic and editorial decisions.

During the last years, large advertising contracts have been distributed to major national or local media outlets by institutions with significant resources such as some of the district city halls in Bucharest. Ads paid for by these city halls usually promote, directly or indirectly, the district mayors of Bucharest, taking advantage of a legal loophole allowing this kind of political publicity outside the electoral campaign windows.

These ad sales agreements are signed by some of the district city halls through intermediaries, usually subordinated commercial companies established or owned by those city halls tasked with producing and distributing the ads. This procedure is permitted by law, allowing public authorities to assign contracts to subordinated companies, which then contract private businesses, not having to comply with the restrictions imposed by the public procurement regulations.

An investigation published by the independent news portal G4Media unveiled<sup>40</sup> that a company owned by the Bucharest District 3 City Hall contracted €6 million in ad services to several media outlets in the summer of 2023. Those media outlets published advertising materials about the activities of the mayor of the Bucharest District 3 without labelling them as such, a blatant case of public misleading. Moreover, advertising contracts are meant not only to promote local officials, but also to secure their protection by media outlets.

One other method of transferring state funds to the private media is through subscription contracts, assigned under no transparent criteria to preferential media outlets. For example, in January 2024, the Bucharest District 4 City Hall acquired 200 annual subscriptions for the daily newspaper Jurnalul Național worth over €30,000.<sup>41</sup>

One of the main ways in which state money is channelled to media companies is through public funds earmarked for political parties. These funds, which are state budget subsidies to political parties, are regulated by the Law on the Financing of Political Parties no. 334/2006.<sup>42</sup> Following an amendment in 2015, the law massively increased the funds allocated to political parties. Parties are allowed to spend these funds on various activities, including one called “media and propaganda”. As a result, the media market has been flooded with party money in recent years, distributed with little to no transparency or accountability. In the first nine months of 2023, political parties spent around €20 million on “media and propaganda”

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<sup>40</sup>Sorin Semeniuc, Dan Tăpălagă, “Primăria Sectorului 3 a atribuit fără licitație un contract de 6 milioane de euro pentru propagandă...” (The District 3 City Hall awarded without tender a €6m contract for propaganda...), G4Media, 25 September 2023.

<sup>41</sup>Cristina Lupu, “Starea mass-media din România...”, cit.

<sup>42</sup>Legea nr. 334 din 17 iulie 2006 privind finanțarea activității partidelor politice și a campaniilor electorale (in Romanian; hereafter Political Party Financing Law).

activities<sup>43</sup>, followed by €22 million in the first six months of 2024, an increase triggered by the EU Parliament and local elections in June 2024.<sup>44</sup>

The Permanent Electoral Authority (AEP)<sup>45</sup> is the authority in charge of monitoring this type of spending. Political parties must report the total amounts spent for media and propaganda, including the details of those expenses (the final recipient, the total amount, and the outputs) to the AEP. The contracts for this type of spending do not fall under the Public Procurement Law or related regulations. Yet, their content should be governed, theoretically, by the Law on Access to Public Information.<sup>46</sup>

In practice, both the AEP and the political parties fail to disclose the details of the party expenses in the media. Moreover, most political parties use intermediary companies, such as advertising or PR agencies, to distribute their funds to media outlets as a way to hide the traces of the public money. They do so often as there are no transparency-related legal obligations regarding this form of spending if they do it via third-parties.

The Audiovisual Law forbids any politically sponsored content in the audiovisual media outside the electoral campaigns. However, political parties and some media outlets found ways to circumvent these restrictions, too, for example by signing contracts for content published on the websites of the broadcasters, which is not covered by the Audiovisual Law. According to media investigations, this content in most cases bears no political advertising marking, having the potential effect of misleading the public.

Political party spending is also used as an instrument to ensure favourable content for certain politicians or parties as media outlets receiving such funds do not publish critical information about the parties financing them. Moreover, some parties are allegedly using public funds to pay for smear campaigns against their opponents, which are misleadingly presented as journalistic content.<sup>47</sup>

Finally, the government uses funds to distribute to friendly outlets at times of crisis. During the COVID-19 pandemic, for example, the government created a media subsidy program for all media outlets interested in running a four-month information and awareness campaign on COVID-19 effects. The program received over €40 million, a massive amount per Romanian media standards, which was distributed based on an opaque mechanism, without any qualitative criteria. It has contributed to and bolstered a toxic practice, that of preferential state funding of media, whose main costs are the editorial independence and the credibility of the

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<sup>43</sup>Septimius Pârnu, Diana Vasiliu, "Subvențiile partidelor politice în 2023", Expert Forum, December 2023 (in Romanian).

<sup>44</sup>Septimius Pârnu, "Subvențiile partidelor politice în primele șase luni din 2024", Expert Forum, 14 August 2024.

<sup>45</sup>See [here](#).

<sup>46</sup>Legea nr. 544 din 12 octombrie 2001 privind liberul acces la informațiile de interes public (in Romanian; hereafter Access to Public Information Law).

<sup>47</sup>"Ediția #145: Campanie plătită al cărei scop a fost decredibilizarea Emiliei Șercan" (Paid campaign whose purpose was to discredit Emilia Șercan), Misreport, 31 January 2023.

media industry.

## Transparency of state media contracts

State advertising spending must follow the same procedures as other forms of state spending, as set out in the Public Procurement Law. Data on state advertising spending, including the legal names of media service providers and the total annual amount spent per service, must be made publicly available on the Seap.ro platform or on the websites of the public institutions that award these advertising contracts. However, the data on Seap.ro contain many errors and the searches are limited by design, while the information on the websites of the public institutions and subordinate bodies is sometimes published in sections that are difficult to access, and sometimes not published at all.

However, the publication of the state advertising contracts, although it ensures transparency, does not guarantee fairness as the decision-making process regarding the awards of the funds is made at the local level.

The Romanian Court of Accounts<sup>48</sup> and the National Agency for Public Procurement (ANAP) have the legal mandate to monitor any public expense or acquisition and to request more information about them. The National Council for Solving Complaints (CNSC) can also receive challenges regarding public procurement decisions.

## Monitoring state advertising spending

There is no political interest or appetite to monitor the distribution of advertising contracts in Romania. Consequently, neither the ANAP nor other relevant bodies oversee the allocation of state advertising funds to media service providers, nor do they prepare reports on this matter.

The Center for Independent Journalism (CIJ), a Bucharest-based media NGO, publishes an annual report on the state of the Romanian media industry, which also includes data on government advertising expenditure to media service providers. The reports comprise a general assessment of the media based on interviews with media managers and journalists.

Most of the information about problematic public procurement practices in the media mainly comes to light due thanks to investigations published by independent media outlets.

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<sup>48</sup>See [here](#).

## MEDIA PLURALISM AND POLITICAL/STATE INFLUENCE OVER NEWS MEDIA

*This section discusses how Articles 6 and 22 of the EMFA are implemented.*

### Summary

The Romanian media market is characterised by a high degree of diversity, but also by an unhealthy degree of political polarisation, low transparency of ownership and a medium level of ownership concentration, which has decreased in the past with the proliferation of new media, especially in the online environment.

However, the market fundamentals are not sound, with many outlets reliant on revenues injected by their owners, who leverage the media as a tool to advance political or business interests. In other instances, political parties or state bodies utilise the media as a direct means of influencing the content they disseminate (see the section on *Misuse of state funds to influence media output* in this report). The apparent diversity of television news, for example, belies the political affiliations of those who directly or indirectly control the majority of these outlets.

The regulatory framework pertaining to media ownership transparency is currently limited to the broadcasting market. Conversely, there are currently no regulations in place governing the transparency of media revenue. Information on the ownership structure of broadcasters, including beneficial owners, is available for public inspection on the website of the CNA. Information on ownership for all other companies is available in the National Commercial Registry<sup>49</sup> database, but it is subject to a fee and not readily searchable.

Concentration of media ownership is covered both by the Competition Law<sup>50</sup>, whose provisions apply in a similar manner to all markets, and by the Audiovisual Law, which contains specific provisions, but only for the broadcasting sector. Relevant for the discussion on media pluralism are the criteria laid down in the Audiovisual Law for determining the “dominant position in the formation of public opinion” in the audiovisual market.<sup>51</sup>

### Transparency: legal requirements

#### Media ownership

Only the legal subjects of the audiovisual legislation (broadcasters and online distribution platforms) are required by the audiovisual legislation to make their

<sup>49</sup>See [here](#).

<sup>50</sup>[Legea concurenței nr. 21/1996](#) (Competition Law).

<sup>51</sup>In Romanian, the law refers to the “dominant” position as the “predominant” position.

legal name and contact details publicly available.<sup>52</sup> In practice, the contact details published by some broadcasters lead nowhere, either because the e-mail address is invalid or the telephone numbers are not available. The same is true of online media where a significant number of publications (mainly local media outlets) do not provide any contact information.

Only the audiovisual sector is under the obligation to disclose its ownership structure.<sup>53</sup> The CNA publishes on its website a document containing the full ownership structure of all broadcasting companies, including beneficial owners. The law requires any individual or entity holding a stake of at least 10% in a licensed broadcasting company or any other company that owns shares in a broadcasting company to inform the audiovisual regulator.<sup>54</sup>

All ownership data about companies in Romania, including media companies, is available in the National Commercial Registry database. Access to this information is available for a fee, and expertise in data searching is required, which makes it challenging for the general public to find information about business owners. There are no specific regulations requiring media outlets to disclose the fact that they are owned by the state or a public authority.

In the event that a public authority owns a publication (print or online), the data in question should, in theory, be made available by the relevant outlets, given that public money is involved. However, there are currently no specific rules governing this. However, instances of such ownership are uncommon, and no instances of non-compliance with transparency regulations have been publicly reported. Furthermore, such information can be obtained from public authorities through the Public Information Law.

In the context of a year with four different rounds of elections in 2024, one CNA member proposed that CNA publish a list of all media owners who have political affiliations or are standing for election. This would be in line with the EMFA provisions on declaring “actual or potential conflicts of interest that might affect the provision of news”.<sup>55</sup> The proposal was not accepted by the other CNA members, who stated that there was no legal foundation for such a measure. Furthermore, they stated that the list was incomplete, did not encompass other interests such as business interests, and could potentially result in a decline in public trust in the media. Accordingly, the publication of such a list would be controversial.<sup>56</sup>

## State funding

There are no regulations in place that require media companies to disclose the total

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<sup>52</sup>Audiovisual Law, Art. 74.

<sup>53</sup>Audiovisual Law, Art. 48-49.

<sup>54</sup>Audiovisual Law, Art. 43.5.

<sup>55</sup>European Media Freedom Act (EMFA), Art 6.

<sup>56</sup>Iulia Bunea, “CNA nu vrea să publice lista televiziunilor cu patroni politicieni sau candidați la alegeri...” (CNA does not want to publish the list of TV stations owned by politicians or electoral candidates), Pagina de Media, 22 May 2024.



annual amount of public funds for state advertising that they have received, including revenues from third-country public authorities or entities.

The Constitution provides the framework for potential legislation that could oblige media outlets to disclose their sources of funding. However, such legal provisions were never adopted. As an alternative, the information in question can be obtained from public authorities using the Public Information Law. However, the poor implementation of this law and the limited interest, mainly from journalists or NGOs, has resulted in a general lack of transparency regarding this information.

## **National media ownership databases**

In accordance with audiovisual legislation, all legal entities in possession of an audiovisual licence are obliged to disclose their complete ownership structure to the CNA. While not legally binding, the CNA publishes a comprehensive list of all licensed broadcasters on its website, including all relevant ownership data.

It should be noted, however, that the national law does not require national regulatory authorities to develop national media ownership databases containing detailed ownership and financial data.

## **Assessment of media market concentrations**

There are currently no legal provisions in place that require an assessment of media market concentrations with the potential to significantly impact media pluralism and editorial independence.

The Competition Law does not include any specific provisions regarding the media market. The Competition Council (CC), Romania's anti-trust regulator, applies the same rules to the media as it does to any other market. However, the Audiovisual Law contains specific regulations regarding the broadcasting sector. The rules set out in both the Competition Law and the Audiovisual Law are transparent, objective, proportionate and non-discriminatory.

None of the aforementioned regulations address the issue of vertical concentration across the media market. This is a significant concern, given that the largest media groups in the country own media outlets with strong positions in multiple sectors, including television, radio, and online.

## **Notification of media market concentrations**

In line with the Audiovisual Law, any individual or entity holding at least 10% of the shares in a licensed broadcasting company or any other company owning shares in a broadcasting company is required to inform the CNA.

Any transactions, acquisitions or mergers between media companies must be reported to the CC if, according to the Competition Law, the combined turnover of the enterprises involved in the deal exceeds €10 million or at least two of the enterprises involved have an individual turnover of more than €4 million in Romania.<sup>57</sup>

The Audiovisual Law designates the CNA as the legal authority responsible for assessing whether a broadcaster is in a position of “predominance” in forming public opinion.<sup>58</sup> This obligates the broadcast regulator to notify the “competent authorities” regarding any practices that restrict competition, result in market concentration, or constitute an abuse of a dominant position. All such activities are subject to supervision by the CC.

## Impact of media market concentration on media pluralism

The Audiovisual Law sets out the criteria for determining the entity that holds the “predominant position in the formation of public opinion” on the audiovisual market. This is defined as a person or legal entity that owns, directly or indirectly, over 20% of a broadcasting company, or provides programme services with a significant weight in the formation of public opinion. This includes services such as general programmes, news, analyses and debates on political and/or economic topics or current affairs.

A natural or legal person is deemed to hold a predominant position in the formation of public opinion if the weighted audience share of the programme services assigned to them exceeds 30% of the significant market. In assessing the dominant role in shaping public opinion, the legislation also considers the influence of personal family ties, in accordance with the prevailing commercial and economic-financial legislation. The legislation sets out clear criteria for determining audience share.

In response to the recent decision by some of Romania's leading television stations to opt out of the must-carry system and demand payments for the redistribution of their programming, the CC initiated an in-depth analysis of the television market in August 2024. The CC aims to assess the impact of this practice on the TV redistribution market, but its remit will extend much further. It will investigate the TV production market, the TV redistribution market, the TV advertising market, with a view to establishing the level of market concentration, the markets’ health and other market features.<sup>59</sup>

In accordance with the Audiovisual Law, when it is determined that a natural or

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<sup>57</sup>Competition Law, Art. 13.

<sup>58</sup>Audiovisual Law, Art. 44.

<sup>59</sup>“Consiliul Concurenței investighează televiziunile care au renunțat la regimul must carry și cer bani pentru a transmite programe” (The Competition Council is investigating television stations that have opted out of the must carry regime and are demanding money to broadcast programmes), Economedia, 19 august 2024.

legal person holds a dominant position in the formation of public opinion, exceeding the audience quota, the CNA requires the broadcasters with a significant influence in this formation to rectify the situation by aligning with the accepted audience quota. This is to be achieved within a specified timeframe. Should the situation remain unresolved beyond the specified timeframe, the CNA will mandate the implementation of tangible measures, including a reduction in participation quotas or the number of licences held within a period of three months. Should the broadcaster fail to comply with the aforementioned conditions, the CNA reserves the right to withdraw its broadcasting licence.

With regard to the remainder of the media market (online and print), the general regulations set out in the Competition Law will apply.

Over the past 10 years, a number of media acquisitions have been subject to scrutiny by the CC, including the acquisition of Prima TV by Clever Business Transilvania, the acquisition of cable operator AKTA TV by cable operator RCS & RDS, and the purchase of Gazeta Sporturilor by Ringier. All were subsequently approved by the antitrust regulator.<sup>60</sup>

The most concerning ownership concentration trend currently is the convergence and merger of media outlets and large telecommunications companies. The leading cable operator in Romania, RCS & RDS, is owned by the same entity that also owns a major media group. This group runs the news channel Digi 24 and the website Digi24.ro, which is the leader in terms of Internet traffic and audience, and also in the top three most quoted websites in Romania.<sup>61</sup> The owner of the RCS & RDS group is Digi Communications, a company listed on the Bucharest Stock Exchange. Digi Communication is currently awaiting a decision from the CC regarding a new deal. The proposed deal involves the attempted purchase of Telekom Romania from Deutsche Telekom by a company whose majority shareholder (75%) is the owner of a media group (Prima TV), with Digi Communication owning the remaining 25%.<sup>62</sup>

There have been several instances where broadcasters have alleged that cable providers have engaged in discriminatory or abusive practices and implemented policies that are unfair to consumers. In 2022, RCS & RDS was issued a fine by the CNA for failing to position Aleph News TV alongside the news channels in its programme grid. Aleph TV News is a direct competitor in the market of Digi 24 TV, which is owned by the same entity as RCS & RDS. The CC accepted a complaint<sup>63</sup> from Aleph News TV that RCS & RDS has a dominant market position in the cable

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<sup>60</sup>Source: Competition Council.

<sup>61</sup>Adriana Diură, "Cele mai citate surse..." (The most cited sources), Pagina de Media, 8 May 2024.

<sup>62</sup>Iulia Bunea, "Consiliul Concurenței analizează preluarea Telekom de omul de afaceri Adrian Tomșa, proprietarul Prima TV, și de Digi Romania" (The Competition Council analyses the takeover of Telekom by the businessman Adrian Tomșa, the owner of Prima TV, and by Digi Romania), Pagina de Media, 20 June 2024.

<sup>63</sup>Iulia Bunea, "Consiliul Concurenței investighează RCS pentru posibil abuz de poziție dominantă, după plângerea Aleph" (The Competition Council is investigating RCS for possible abuse of a dominant position, following Aleph's complaint), Pagina de Media, 1 June 2022.

from Aleph News TV that RCS & RDS has a dominant market position in the cable market. The Council is investigating whether this position has been abused.<sup>64</sup> RCS & RDS presented the CC with a list of commitments, which are currently under discussion. In a further development, the CNA has informed the CC that RCS & RDS has declined to permit the redistribution of certain of its own must-carry channels on rival online platforms.<sup>65</sup>

## Impact of media market concentration on editorial independence

In line with the Constitution, any form of censorship is prohibited in Romania.<sup>66</sup> The same principle is reiterated in the Audiovisual Law, which also guarantees the editorial independence of media service providers.<sup>67</sup>

Nevertheless, in practice, the CNA has never issued any sanctions based on these provisions, as it considered that investigating specific situations was beyond the scope of its mandate. Furthermore, there are no corresponding sanctions in law for these provisions. On a positive note, the CNA has recently demonstrated a more supportive approach, issuing a public statement in support of editorial freedom principles during a conflict between journalists and the management of Ringier in Romania.<sup>68</sup>

There are no legal obligations in place requiring any of the parties involved in media market concentration to protect media pluralism and editorial independence.

Over the past decade, there have been several mergers and acquisitions that have impacted the editorial independence of various media outlets. One of the most egregious violations of editorial independence in Romania over the past five years involved the Swiss-owned Ringier Group management. Ringier owns two leading publications: the generalist newspaper Libertatea and the sports daily Gazeta Sporturilor, both of which are well positioned in the online market. The editorial management of the two publications was dismissed by Ringier in late 2023 after they declined to accept the interference in editorial decisions, as publicly disclosed by the journalists involved.<sup>69</sup> The acquisition of Gazeta Sporturilor by Ringier in 2018 was subject to an in-depth review by the CC, which concluded that the transaction would not impede effective competition in the Romanian market, particularly in

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<sup>64</sup>Iulia Bunea, "[Ce promite RCS&RDS pentru a încheie o investigație privind un posibil abuz de poziție dominantă pe piața TV, pornită de la plângerea Aleph News](#)" (What RCS&RDS promises to close an investigation regarding a possible abuse of a dominant position on the TV market, started by the Aleph News complaint), Pagina de Media, 31 January 2024.

<sup>65</sup> Iulia Bunea, "[RCS refuză să dea Digi24, dar și celelalte posturi ale sale, pe alte platforme online...](#)" (RCS refuses to offer Digi24, as well as its other stations, on other online platforms...), Pagina de Media, 14 March 2024.

<sup>66</sup>Constitution, Art. 30 (2).

<sup>67</sup>Audiovisual Law, Art. 6.

<sup>68</sup>"[Romania: IPI stands by Libertatea as layoffs deepen concerns over pressure on editorial independence](#)", IPI, 20 December 2023.

<sup>69</sup>"Romania: IPI stands by Libertatea...", *cit.*

terms of creating or consolidating a dominant position.<sup>70</sup>

In another instance, a group of broadcasters alleged that their competitors had formed cartels with the objective of winning tenders for various sports competitions, including the football national league. In 2019, public television broadcaster TVR submitted a formal complaint to the CC regarding this matter. The broadcasting rights were awarded to a company, eAD, which did not have any broadcasting operations. eAD subsequently sold the broadcasting rights to various broadcasters, including Digi Sport and Telekom Sport, which were both owned by telecommunications companies at the time.<sup>71</sup>

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<sup>70</sup>Iulia Bunea, "Gazeta Sporturilor trece oficial la Ringier. Consiliul Concurenței a autorizat tranzacția" (Gazeta Sporturilor officially moves to Ringier. The Competition Council authorised the transaction), Pagina de Media, 23 August 2018.

<sup>71</sup>"Au venit banii din drepturile TV! Anunț de ultimă oră înainte de startul noului sezon din Liga 1" (The money from the TV rights has arrived! Last minute announcement before the start of the new League 1 season), GSP, 12 July 2019.

# RECOMMENDATIONS

## WHAT IS NEEDED TO CAPTURE-PROOF THE ROMANIAN MEDIA

The recommendations are structured as follows:

- a) Recommendations aimed at aligning national legislation with the EMFA's general provisions; and
- b) Recommendations aimed at enhancing the media environment regardless of EMFA.

### Independence of media regulators

#### Brief overview of EMFA provisions

The 2018 amendment of the Audiovisual Media Services Directive (AVMSD) already set out the requirements for independent media regulators. These include functional independence from governments, impartiality and transparency, operation without instructions, clearly defined competences and powers, an effective appeal mechanism, a proper mechanism to appoint and dismiss the head and the body of the authority, and also adequate financial and human resources and enforcement powers. In light of the above, EMFA essentially reiterates the stipulations set forth in Article 30 of the AVMSD, with the notable addition of provisions pertaining to the requisite resources, specifically technical resources, and the authority to request information and data. Consequently, prior to the implementation of EMFA, Member States are obliged to adhere to the majority of the requirements pertaining to independent media regulators as outlined in Article 30 of the AVMSD.

#### Aligning with EMFA's general provisions: what is needed?

Romanian legislation is broadly consistent with EMFA's overarching principles regarding the autonomy of its media regulatory body.

#### Further enhancing the media environment: what is needed?

- Legal provisions should be introduced to make the CNA board more politically independent (solutions could include strengthening nomination process, introducing transparent criteria for potential members, or prohibiting individuals with political affiliation from being appointed).
- Legislation should be amended to provide criteria for the evaluation of the annual reports by the Parliament.
- The institution and its status should be strengthened including through an adequate budget which should ensure a proper functioning and fulfilment of its mission.
- The CNA sanctions should be more accurately regulated/defined in order to fulfil their role of discouraging editorial practices which breach the regulatory standards and harm the public interest.

## Independence of public service media

### Brief overview of EMFA provisions

Article 5 of EMFA requires that governments guarantee the independent functioning of public media, including ensuring their editorial and functional independence, that procedures for appointing the management guarantee the independence of public media, that those appointed are done so on the basis of transparent, open, effective and non-discriminatory procedures and criteria, that funding is transparent, adequate, sustainable and predictable and can guarantee the editorial independence of the public media, and that an independent body is designated to monitor the application of these principles.

### Aligning with EMFA's general provisions: what is needed?

- The criteria for appointing the members of the governing bodies of public service broadcasters should be revised in order to enhance their independence from political influence and to guarantee the professionalism and integrity of the members. This may include strengthening the professional criteria and providing civil society with a greater role in either nominating supervisory board members or in being nominated as supervisory board members.
- The law should be amended to also outline clear procedures for the dismissal of the heads of management or members of the management board including that any dismissal must be duly justified on the basis of no longer being able to fulfil the conditions required to perform their duties. Dismissals should also include the possibility of judicial review.
- The powers of the different management bodies of public broadcasters should be more clearly defined in the legal framework, in order to avoid concentration of power into the hands of the current President-General Manager and facilitate more effective accountability mechanisms. This may be done by separating the roles of President of the Council of Administration and General Manager of the Executive Committee. The General Manager would then be an executive directly accountable to the Council of Administration.
- An independent monitoring mechanism should be established to monitor compliance with legal requirements for editorial independence, balanced coverage and fairness and the degree to which it fulfils its public service mandate.

### Further enhancing the media environment: what is needed?

- The legislation should be revised to provide more detailed and clear criteria for the evaluation of the annual reports. This will help to avoid excessive discretionary decisions backed by political motivations. The current practice of automatically dismissing the entire Council of Administration in the event of a parliamentary veto over the annual report of the public broadcasters should be revised.
- Funding mechanisms for the public service broadcasters should be redefined in order to avoid the institution becoming overly dependent on budgets decided

and transferred by the government.

- The public mission of the broadcaster should be more clearly defined, to be aligned more closely with recent technological and market trends and be used as a guide for evaluating the criteria in annual activity reports.
- The National Press Agency - Agerpres - Information about the members of the Executive Committee should be more transparent and open to public scrutiny. The institution functions without a Council of Administration. The legislation should provide for such a body in order to ensure public oversight.

### **Misuse of state funds to influence media output**

#### **Brief overview of EMFA provisions**

Article 25 of the EMFA states that, while public procurement rules remain unchanged, state advertising must be awarded in accordance with transparent, objective, proportionate and non-discriminatory criteria.

#### **Aligning with EMFA's general provisions: what is needed?**

- The legislation on public procurement pertaining to state advertising should be enforced with greater rigour and brought into line with the requirements of EMFA. This should include the award of funds in accordance with transparent, objective, proportionate and non-discriminatory criteria, made publicly available in advance and awarded through open, proportionate and non-discriminatory procedures.
- The current legal loopholes enabling public authorities to distribute advertising contracts without a tender, without prior notice, or through third-party intermediaries should be closed in order to prevent the proliferation of such practices.
- The oversight body designated to monitor state advertising (National Agency for Public Procurement (ANAP)) should ensure compliance with the rules, and issue annual reports.
- Political party funding of media outlets for propaganda purposes should be more strictly regulated and limited, ensuring full transparency. All materials funded by political parties should be labelled as such.

#### **Further enhancing the media environment: what is needed?**

- The obligations related to the distribution of state funding should exceed the requirements of EMFA and be applied to all local authorities, irrespective of population size.



## Media pluralism and political/state influence over news media

### Brief overview of EMFA provisions

Article 6 of the EMFA requires news media organisations to provide information about their owners, including potential conflicts of interest, and to implement measures to ensure editorial independence. Article 22 of the EMFA requires governments to implement a system for the assessment of concentrations that could have a significant impact on media pluralism and editorial independence.

### Aligning with EMFA's general provisions: what is needed?

- Legislation should be enacted to require all media service providers (not just those subject to the audiovisual legislation) to provide data on their legal representatives and structure of ownership, and easily accessible contact information.
- Legislation should be enacted to require transparency regarding the funding of news media service providers from state budgets or other sources of public money.
- Legal provisions requiring media service providers to make public any potential conflicts of interest, especially those related to the political or business interests of their owners, which might affect their editorial independence should be adopted (such as requirements to publish a list of media owners who stand for election).
- The government should designate a body to implement the above and to publish the content in a publicly accessible national media ownership database.

### Further enhancing the media environment: what is needed?

- CNA should revise its procedures and operational processes to ensure effective enforcement of audiovisual regulations against broadcasters. Concurrently, the institution's budget and human resources should be realigned to reflect its expanded remit for regulating online audiovisual media.
- Legislation should be updated to enable an assessment of the level of concentration on the online market. For example, many television stations have an equivalent website, which is sometimes operated by a different legal entity, and are also market leaders in the online space.

# MEDIA CAPTURE MONITORING REPORT: ROMANIA

OCTOBER 2024

This report by IPI is part of the Media Freedom Rapid Response, which tracks, monitors and responds to violations of press and media freedom in EU Member States and Candidate Countries. This project provides legal and practical support, public advocacy and information to protect journalists and media workers.

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