Romania Country Brief 2018-2019

Freedom of expression, its challenges and limitations

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Freedom of expression, its challenges and limitations

Introduction

In theory, Romania has relatively strong freedom of expression safeguards, guaranteed by its Constitution. In practice however, most assessments and reports by local and international organizations and observers reveal a long list of shortcomings. Not surprisingly, and similarly to other countries in the region and beyond, these challenges affect several well-defined areas: the media and journalists, activists and organizations for/against various social and political causes, minorities of every type (ethnic, sexual, religious, political etc.) - in all mediums: online, offline, print, and on-air (TV, radio).

ActiveWatch’s 2014 report on the “Political Map of Local Television”¹ as well as the “Media Ownership” investigation project² by RISE Project Romania and the Organized Crime and Corruption Reporting Project (OCCRP)³ offer some of the most recent documentation of power abuses, corrupt financial practices and pressure mechanisms applied to silence journalists or poses the media as a tool for political influence and control. The 2018 World Press Freedom Index⁴ by Reporters without Borders also signals the rising risk of media politicization, especially visible around elections or referendums, major legislation debates and other significant social and political events. We conducted 24 interviews with relevant experts, professionals and civil society practitioners to take the pulse of where Romania stands with regard to freedom of expression.

Media freedoms – a pillar of any modern democracy – are among the most visibly affected. Strong political involvement – via ownership and/or indirect influence – and pressure on local, regional and national media outlets has long been a major cause of limitations on reporters and editors’ freedom of expression and access to information. Many journalists affected by this pressure, but reluctant to succumb, have taken the matter in their own hands by establishing their independent platforms in the format of blogs or media outlets - often as non-profits or innovative start-ups. This has provided them with more agency to speak up in public, run their own investigations unhindered by editorial and ownership policies and drive their own independent projects, with the obvious risk of financial instability, additional management duties and so on.

Not only politics and finances interfere with the work and freedoms of the media and civil society, but other types of pressure have a major impact as well. These can range from verbal and physical abuse when reporting in the field to increasing online reactions and pressure by trolls and bots on social networks, public defamation and attacks affecting reporters’ and activists’ private lives and wellbeing, even death threats.

² RISE Project Romania, https://www.riseproject.ro/investigation/
The same challenges and opportunities apply to other spheres of activity such as NGOs and movements working to promote human and constitutional rights, minority rights advocates and defenders, political and anti-corruption initiatives launched by citizens unhappy with the current establishment, religious groups etc.

Perceived limitations to freedom of expression in personal and professional life

Limitations that infringe on our respondents’ freedom of expression from a personal point of view included: challenges on manifesting their core identity; discrimination based on age, gender and professional seniority; censorship of critical thinking and public voicing of opinions; threats related to personal values and thoughts. From a professional point of view, most cases involved: legal and financial barriers to financing projects and ideas; business and political capture of the media, public institutions or civil society organizations; lack of transparency; fake news and misinformation; lack of civic and critical thinking education; harassment and threats of various sorts.

With media representatives, legal, financial, and political barriers often prevent them from being able to carry on projects and successfully represent their stakeholders and communities of interest. In Romania, there is a strong link between media outlets (ownership) and industries, while industries, on their part, are strongly linked to political figures and/or political parties. The journalists we spoke with (and their organizations overall) have faced repeated pressure and aggressive reactions when investigating and publishing stories on high-level corruption. From attacks on their belongings – such as broken car tires and surveillance while on field work – to public defamation, threats to their job safety in newsrooms where ownership was politically connected, fiscal controls sent to their offices right ahead of major story launches, or even death threats.

We encountered cases of direct targeting, use of controlled mainstream media for public defamation and other direct attacks in public and private that start intensifying among civil society leaders. Organizations that aim to tackle hate speech and fake news get targeted and become subjects of fake news and hate speech.

A key contributor to limiting freedom of expression is the ability of organizations working on human rights, watchdog organizations, and independent news outlets to secure funding for survival. For some of the organizations we interviewed, their activities on freedom of speech have not received funding in several years.

In the case of the LGBTQI community, there were tensions between them and representatives of religious groups directly or public institutions siding with religious groups and views that opposed the basic definition of their identity and their activities. Although in recent years the interaction between these different communities has not been physically violent, verbal violence and hate speech against LGBTQI community members and organizations has proliferated mostly in the online environment. The occasion of the referendum on re-defining marriage as a union between a man and a woman in the Romanian Constitution has brought a strong wave of discrimination against LGBTQI people and organizations supporting them.

In the case of protests and protesters, the limitation to peaceful assembly has culminated with the brutal intervention of police forces on August 10, 2018 leading to more than 400 injured participants.

Migrant communities have been affected by lack of direct access to means of communication and information dissemination. This has led to feelings of powerlessness, misrepresentation
and proliferation of fake news. Organizations supporting migrant communities and their staff have been targeted by extreme right activists and organizations through hate speech and verbal threats.

A new piece of legislation concerning money laundering required NGOs to publish the list of end beneficiaries of their projects. This is very costly and time consuming, putting significant financial strains on small NGOs, potentially leading to bankruptcy.

In the case of academics at different levels of the education system, there is a lack of a proper support system and mechanisms for students and professors with respect to freedom of expression, critical thinking and institutional feedback. Therefore, students, teachers, professor and educators are being silenced, censored, self-censoring, misrepresented or threatened if they speak or act against the institutions they represent.

In the cases of other interviewees, peer pressure or intention to avoid personal and professional tensions have resulted in them not expressing freely their religious preferences, racial or ethnic issues and opinions about sexual orientation or family choices. Self-censorship, is, in the case of some interviewees, related to not wanting to negatively impact emotionally one’s family and friends.

A particular case of pressure occurs in relation to local authorities, that are sensitive to any type of criticism and react through personal channels and directly often with impact on the level of funding they offer.

Interviewees talked about different aspects of the relationship between freedom of expression and financial power whereby the former is conditional on the financial power of the topic it represents.

We encountered cases involving gender discrimination and respective pressure, limitations or pressure due to hierarchic relations in the workspace and especially in public service institutions. In some instances, these limitations were or still are also experienced directly by the interviewees themselves.

In local media contexts where the communities are relatively closed and heavily influenced by local economic-political ties, it is often the case that newsrooms are directly financed or indirectly controlled by local power structures, which attracts a set of editorial restrictions upon reporters. Self-censorship is common here as jobs are difficult to find in the regional media (especially if you are a minority reporter) and dissent can also result in being black-listed on the media market.

Most interviewees have experienced and/or witnessed infringements and attacks on freedom of expression in the online space, either in direct discussions, or via news and fabricated information.

**Opinions about freedom of expression legislation and practice in Romania**

There seems to be a unanimous reaction that while available legislation seems quite strong and complex, it lacks practical implementation at the level of safeguards and sanctions - for example, independent and competent authorities to check and sanction misbehavior in the public space; mechanisms and institutional support for safe and constructive dialogue and feedback etc. There are mentions of cases of journalists who had reports taken off-air and did not use available legislation to react due to fear of losing their jobs.
Freedom of expression and its limitations imply personal and cultural aspects as people think less about the law and more about direct personal issues and long-term effects of their reactions at work and in their communities.

Some perceive that in Romania’s case there is no organization which can investigate what really happened in any given situation and the national authority – Audiovisual National Council, is highly politicized and ineffective.

**Reactions to cases of limitations to freedom of expression**

Limitations and threats are mostly targeting human rights, minority, activist, protest-generated, think tanks, community or civil rights organizations. The other types of organizations face less pressure and limitations. Much of the attacks on civil society organizations is happening on TV or internet. Such attacks on the freedom of speech and dignity of leaders and journalists are perceived to be emotionally difficult to deal with and sometimes efficient in affecting one’s reputation. In consequence, there is a strong emotional impact on those concerned.

Some interviewees adopted a direct reaction to being limited in their freedom of expression or seeing others being limited. Organizations continue their work on media and freedom of expression despite being attacked end up being marginalized, at times even in the civil society sector.

In the cases of the interviewed journalists, it ranges from making stories about intimidation and pressure public to their audiences to getting angry and ultimately reluctant or simply ignoring the facts as collateral job effects and moving forward—this usually after several years of practice with getting annoyed and angry. However, other cases known to interviewees have resulted in people quitting media jobs or changing profession altogether.

Other interviewees have adopted self-limitation and self-censorship as the safest way, blaming it on their non-combative personality or bad history with reacting to issues in public or among friends. Sometimes, they chose to change the subject or fake agreement with issues they would normally disagree with. This also happens because of not wanting to put up with the 'system,' because of fear of losing one’s job or the possibility to practice.

Pressures on freedom of speech are further enhanced by the limited resources available for civil rights organizations and the general and structural under-funding of the civil society in Romania. Therefore, even NGOs that experience threats and limitations may choose to express themselves under-the-radar and some of their staff may choose to change careers rather than put up with this reality.

**Trends in freedom of expression in Romania**

At this point in time, in Romania there is a perceived deterioration of the freedom of speech for journalists and civil society organizations. The political climate is perceived extremely polarized and increasingly deteriorating. Pressures and limitations of free speech is particularly strong in media outlets owned by politicians or people close to political elites, media outlets are perceived as propaganda machines for political interests, with very few exceptions. The control over local media and limitations to journalists at a local level is perceived to be even stronger.

Pressure and limitations to civil society organizations manifest themselves through public campaigns targeting uncomfortable leaders of think tanks or of organizations working with vulnerable groups, LGBTQI, migrants or minorities. In the last period the number of leaders attacked in this way has slightly increased, however, the attack on NGOs is not constant, it
happens around certain political moments or politicized issues. Activation of such attacks is related to the level of notoriety of the civil society leaders and how threatened political leaders feel by their discourse.

Some interviewees mentioned that the recent law in Romania regarding money laundering puts significant strains on (particularly smaller) NGOs to carry their work and get financed for their work related to freedom of expression. The changes in legislation are perceived to be aimed particularly at silencing civil society organizations who may be vocal on uncomfortable topics for politicians, political parties or public authorities.

The rise of populism in latest years has brought up more polarization within society, less tolerance towards certain actors (e.g., migrants, Soros, liberal, progressive, educated people), a rise in far-right nationalism, xenophobia and radical thinking. These have encouraged hate speech and helped proliferate fake news.

On the journalists’ and activists’ side, there is a feeling that public attacks, defamation and criticism has been intensifying towards these sectors and politicians are increasingly comfortable attacking reporters, news organizations and advocacy groups they deem critical to their actions. There is also an observation that access to training, resources and guides on how to counteract or cope with such situations could be helping at least a small part of the journalism and activism sectors to carve their way through these challenges and grow more resilient.

Some interviewees note that public bias and aggressive expression of slurs have been visible in the past and are even more visible now, due to intensified use of social media in disseminating such attitudes. They also noted that support for freedom of expression is more visible in the public sphere now, but that has a double effect – encouraging some minorities and vulnerable groups to speak up more than four-five years ago while empowering their critics and trolls to speak up even louder pushing forward racist and discriminatory discourses. Still, they remark the emergence of a certain ‘oasis of support’ for freedom of expression as laudable.

Interviewees who tended to apply self-censorship in the past say they maintain this behavior today, even more intense at times. Self-censorship is present across the board in terms of types of organizations, professions and roles.

Overall, the trend is perceived to be worsening. The type of discourse and division existing today were not there a few years ago. A difficult fight emerged in the last 2 years, after the elections and the consolidation of power of the new government.