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Perspectives of the Press Council in Romania

Daniela Aurelia Popa¹

Abstract: A review of self-regulatory operational systems at international level can offer a practical vision on media responsibility tools such as press council, which represents the main focus of this study. The Press Council is a flexible structure (Zlatev, 2011, p. 18) whose complexity depends on the political, cultural, historic and cultural context of a country and the professional culture of the journalists. There are many models of press councils, so we can conclude that there is no universal model, better or less good. This study aims at providing the current prospects for the functioning of such an instrument of professional responsibility of journalists in Romania and it is based on a qualitative research based on in-depth interview.²

Keywords: self-regulation; moral court; prestige; sanction

1. Introduction

As a tool for self-regulation media, the Press Council is an *independent agency whose responsibility is of monitoring the daily performance of mass-media* (Dominick, 2009, p. 454) or a more complex definition: that apolitical and non-governmental structure whose purpose is to ensure the smooth and sane development of the life of information environment, particularly through monitoring the good journalism practice and by judging cases of malpractice (Runcan, 2002, p. 324). The Press Council has the following characteristics (Ristow, 2009, p. 5) it may cover *written press and audiovisual media* - consisting of members such as journalists, representatives of public community, covering a wide geographical area; it can be established by *a statute* - by: companies, professional media organizations or independent groups.

Most northern European countries benefit from the existence of Press Councils, News Councils or Mass-media Councils, which have expanded their activities and they are now responsible for journalistic publications. Solving complaints against the mass-media remain a vital task of the Press

¹ Assistant Professor, PhD, Danubius University of Galati, Faculty of Communication and International Relations, Romania, Address: 3 Galati Blvd, Galati, Romania, Tel.: +40372 361 102, Fax: +40372 361 290, Corresponding author: daniela.popa@univ-danubius.ro.

² For conducting interviews, the researcher has had a number of questions that have served as a guide for the interview and which were addressed not in a strict order, but according to the conversational flow and the reactions interviewees. By conducting interviews, the researcher was able to obtain the perceptions of journalists on the objectives of the study. The interpretation of the collected data was achieved by calling the content analysis based on categories grid. Some text units were coded according to the main and secondary themes and text passages containing similar information were placed in a grid of categories. For accurate rendering of relevant information were used both citations and paraphrases but only to support the basic text. The interviews were conducted face to face, during February-April 2013 on a non-probability sampling consisting of 15 people (journalists and media activists).

Council, but the Western countries have several roles, being complemented by academic activities, training institutions and supervisory groups (watchdog), such as: training of journalists, publishing guides of public records, helping to write and publish codes of ethics, ensuring institutional voices against government interventions, supporting a free and responsible press (Risow 2009, p. 8).

For such a council to be established, Deaver (2004, pp. 183-184) suggests the existence of certain requirements such as: a *free mass-media system*, of certain means of *private mass-media* and an *ethics for social responsibility*. Also, in addition to these conditions it must be taken into account that this board cannot be *funded* by the state or the mass-media, as the censorship would interfere, official coercion, undermining the credibility, and it may not have as members, government officials or politicians. Where these councils function, they are the first legally recognized as being entitled and obliged to judge the quality of journalistic practice (such as Medical Colleges, Councils Bars) as protection institutions, but also as media accountability. As for the members of a Press Council Miruna Runcan (2002, p. 324) considers that it should journalists union representatives, representatives of employers and representatives of the public.

2. The Favorable Framework: the Democratic Corporatist Countries

At the moment there are about 50 such press councils in the world, but it is almost impossible to determine accurately the total number of press councils around the world, especially since not all are members of an organization such as the Alliance of Independent Press Councils of Europe (AIPCE)¹ and the World Association of Press Commissions (WAPC).²

The corporate-democratic countries tend to have relatively strong systems formalized by the media self-regulation. The first example of international press council was provided by Sweden in 1916. With durability until today, the **Swedish Press Council** receives approximately 400 complaints annually, of which 10-15% consists of official criticism (Risow, 2009 p. 8) and it has a high level of legitimacy among Swedish journalists and editors. According to researchers Hallin and Mancini (2004, p. 172), there are several elements that make the well-known Swedish Press Council particularly powerful: it has the power to fine newspapers and ask them to publish its decisions; it is headed by a judge, and the representatives of the media industry represent a minority of its members; it is supplemented by the Press Ombudsman who helps investigating complaints.

In **Britain**, where journalists have exceeded for a while the bounds of professional decency early and mid '90s, the parliamentary committees have called for the establishment of a statutory regulation, but the UK press has avoided this by establishing a system of self-regulation (Tambini, 2009, p. 66). The Press Complaints Commission in the UK (PCC) is an organization established in January 1991 by the mass-media to enable injured parties to challenge the way in which the events were presented (Bland, Theaker, & Wragg, 2004, p. 17). In the UK, the board is made up of people with expertise in media (academics, former lawyers and representatives of the public) and it is designed to deal with complaints from the public regarding inaccurate or deficient media reports (Dominick, 2009, p. 454). The Code of Good Practice, under which the Commission operates, is updated regularly and it operates alongside the Code of Ethics developed by the National Union of Journalists, and possible

¹ <http://www.aipce.net/members.html> accessed on 14.03.2015.

² According to a study (Risow, 2009, p. 17) in 2009 the following countries press councils were members of an association: Armenia, Azerbaijan, Bangladesh, Belgium, Botswana, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Hungary, India, Ireland, Israel, Italy, Kenya, Kosovo, Luxembourg, Malawi, Malta, Nepal, Netherlands, Norway, Peru, Russia, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Tanzania, Thailand, Turkey, Uganda, UK, Ukraine, Zambia, Zimbabwe.

violations of the Code are the responsibility of the Press Complaints Commission, dealing with complaints and it imposes the necessary sanctions. The English self-regulation patters consider that the Press Complaints Commission plays the role of the last resort. The Press Complaints Commission is financed by the Finance Council for Press Standards (PressBoF), a body established in 1990 specifically to coordinate the actions from the media industry.¹

Jared Obuya makes a description in his study (2012, p. 40) on the composition of functional press councils in Western Europe. To get a view, we detail as follows: **Netherlands** - a president, three vice-presidents (lawyers), at least ten members who are not journalists and at least ten journalists (some nominated by the Dutch Union of Journalists, others by the Chief Editors Society in Netherlands); **Sweden** - a president, three vice-presidents (legal powers), 14 members (four publicists, two from the journalistic associations, two from the press club, six members of the public) and 14 substitutes, identically distributed; Denmark - a president (member of the Supreme Court), a vice-president (lawyer), six members (two journalists, two editorial managers, two members of the public), six substitutes identically distributed; **UK** - 17 members (of which ten are members of the public including the President and seven Chief editors); Germany - 28 members (14 advertisers and 14 of the journalists associations).

The CIMA study shows that the independence of the press councils is maintained by keeping away the state's institutions from the activity of appointing or approval of the members of the press council (Ristow, 2009, p. 9). The financial aspect is another sensitive issue as press councils funding can come from different sources such as grants, international NGOs, multilateral organizations such as UNESCO, the average annual fee charged to the members of the institutions, subsidies from governments in the West, or even specific projects² or even from the state (such as the Press Council of Turkey), which is to be avoided.

3. The Unfavorable Framework: How about a Romanian Media Council?

The conducted study (Popa, 2014), the assessments of respondents in terms of *authority* with responsibilities in the *accountability Romanian journalists* had a common path: that of highlighting *the need* for it. This occurred within the context of several failed initiatives of the media organizations in Romania to create a functional press council. From the respondents' answers have created the following *categories grid*, in supporting the results:

Necessity: *can be a type of self-regulation structure (...) or it can be a coordinated and controlled institution as CNA (S1); it should be implemented by the press itself, through self-regulation (S4); something to arbitrate things (S12); it may be set as an association with a purpose, with budget and all (S14); it may be formed even by journalists (S15).*

Even if *the name of the forum is less important in the land of forms without substance (S4)*, we note that respondents attributed this structure some names and after the analysis of the frequency terms, the

¹ <http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcomeds/375/375.pdf> accessed on 14.03.2015. *Self-regulation of the press*, Seventh Report of Session 2006-07, by authority of the House of Commons, Culture, Media and Sport Committee, published on 11 July 2007, London, p. 6. Initially, the British commission should have been financed by the contributions from industry press, organized by the Council of financing Press standards (Wilson, 2004, p. 36).

² For example, the Press Council of Bosnia and Herzegovina in 2009 organized an international conference gathering 40 representatives of press councils in the region and in Europe, in order to develop a common strategy self-regulation media, the conference being funded by the German Embassy in Sarajevo and Konrad Adenauer Foundation (Ristow, 2009, p. 20).

predominant use of the term is *council* (of honor, ethics, media)¹ followed by the term *forum* and then *court*. Next we use the media council term.

Out of the desire to follow a functional model, such as Swedish Press Council, created by an honorary court of justice established by the Publicist Club (Hallin & Mancini, 2004, p. 172), the Romanian respondents imagined creating this media council by the guild itself², hoping to trigger a “mass accountability”.

The only such authority should be implemented by the press itself, through self-regulation. The organization is as follows: there are professional associations, unions; it should also be a single forum of the Romanian press, which would deal specifically with this stuff: self-regulation, involving also the press accountability. (S4)

I could see it coming only from our guild and not from the political realm. That would be ideal for journalists to manage to organize a professional association or more which would have as purpose, as I said, not a police case for those who violate these rules, but simply to encourage their compliance as there are codes of ethics, deontological norms. (S8)

This media council is the mechanism for implementing the deontological code unique. It is a traditional mechanism, which operates very well across the European countries and it represents the authority that may make the difference between the quality of journalistic activities and the others. For this reason, the court must have the task of establishing the professional rules, the arbitration slippages and application of *sanctions*.

During the interviews, there were brought into discussion also issues that might impede or facilitate the creation of such moral authority to oversee and monitor the deviations of the Romanian journalists. Firstly, this moral authority must be made up of a group of journalists that *are respected by the guild and with indisputable reputation*, to rise in defending the profession and rescue the deterioration of the media landscape in Romania, so that full authority would be recognized by the journalists. The interviewees considered that these journalists exist, but they are not united so as to form a critical mass. Those polled exemplified other accountability systems that exist, such as the RAC³ (Romanian Advertising Council)⁴ and that of MediaSind.

(...) It is indicated how the RAC, where there are also advertisers and there are virtually all players in the industry. From what we see, even though often enough their solutions were not satisfactory, at least there are there, I have been to a meeting, they are discussing, I do not know if the decisions were made in advance, there are all kinds of agreements or even if they vote for real, but you can make a complaint, you can go there, you are interrogated, even if it is only formally, but it is there. It is a start ... I cannot make trial of intent as I do not have sufficient evidence. They have agreed with us several times. (S14)

¹ Titles: *commission, board of honor, college, comitia (S1); honor council (S2); moral instance, non-coercive court (S3); authority, unique forum of the Romanian press (S4); a board (S7); an informal forum (S8); entity (S11); a body also for the press (S12); press ethics council, media council (S14); moral court, a forum (S15).*

² *Created by the guild: it should be implemented by the press itself (S4) it is coming from the guild (S8) structure of self-regulation type (S1) institutional authority but not bound by the state (S14)*

³ RAC is the only Romanian self-regulatory body recognized by the National Audiovisual Council. Since 2003, NAC and RAC interact based upon a protocol of cooperation. According to it, the RAC and NAC became partners in solving complaints regarding advertising. The decisions in these cases are adopted under the Code of Advertising Practice developed by its members. Available at <http://www.rac.ro/autoreglementarea-in-romania>, accessed on 14/03/2015.

⁴ The Self-Regulation of the advertising industry is considered the most effective tool to stop the excesses and illegalities (Middleton, Trager, & Chamberlin, 2002, p. 158).

All collective agreements, including the one in mass-media, constituted a Joint Commission, whose decisions are required by law, they are compulsory for the parties, for all the institutions of mass-media and for all journalists. Those who make a mistake are required to make public in their institutions the decision of this committee, and from the moment, me as a journalist or as patron have such a judgment, I immediately go to court, and based on it, the court judges. (S5)

3.1. The Structure of Media Council in Romania

Respondents' assessments regarding the structure of Media Council showed the journalists as key members of this forum, as we can see in the next *categories grid*:

Journalists: *guild representatives (S1); employee's representatives (S5); only journalists (S6); only journalists (S14); people from media and I do not mean the central one but also the local one (S10); pressmen (S8); we have journalists and but also editorial management (S13); five people, written press two (S2) journalists with at least 20 years of experience (S4) personalities from this guild that are beyond any suspicion (S11); a forum made up of five respectable people (S15); some more experienced journalists (S7).*

Some respondents considered that journalists need to compose the main forum, that they should be senior journalists in newsrooms. A more important aspect is that respondents felt that ***the reputation and prestige of those journalists***¹ is essential. They must be able to stand up for defending the profession (S3). From this point of view, some respondents believe that these journalists exist; others believe that they are there too few to form a critical mass and they are always challenged. At the same time, it would be recommended that these journalists stop working in other newspapers, to avoid conflict of interests.

I think it is needed of some more experienced journalists with a solid undoubtedly professional profile (S7)

I think if we could succeed in gathering credible people, not only among the journalists but also among the public opinion, in time it could work. On one condition, however that the people who formed an authority do not work in a media institution, so as not to suspect them of favoring their own institution. (S3)

It is conclusive, as we noted above, the fact that the majority of the respondents considered that journalists are the ones who should not miss in this court with responsibilities in journalists' accountability. In addition it should also be taken into consideration ***the members of the public***² (or media consumer associations, as their criticism is always constructive) and representatives of various ***organizations***. On the other hand, other respondents did not agree with representatives of the public as it would be difficult their selection and their number might not be representative for the entire population. Regarding the professional organizations, unions and employers, the subjects considered important for the employers' associations to be part of this council, as the decisions made by the council must be accepted and implemented at the guild and employers' level. Respondents also mentioned for the structure of moral court the representatives from academia, jurists, lawyers, judges, journalists from abroad, independent experts from academic and NGOs environment, to be consulted

¹ Prestige: with a professional spotless prestige, as much as possible (S4); with a solid undoubtedly professional profile (S7); credible people (S3); to be above suspicion, representative people (S11); respectable people (S15).

² Members of the public: *the public is part of this phenomenon (S1); I would give a seat to the civil society representatives (S5); Always listening to their critics (S6); Absolute (S7); it is very important to communicate with the public (S14); members of the public could take people to represent them, the opinion leaders (S15).*

when there are more delicate cases; and that etic council needs independent opinion or from the exterior. Regarding state institutions, respondents felt that they should not be part of that court.

3.2. The Ways of Sanctioning Slippages

According to the MediAct study (Popa, 2014, p. 199) from 2012 at the level of journalists in Romania, they found in a percentage of 63% that self-regulation should include a form of sanctioning. Asking respondents to indicate the most effective types of sanctions, they considered that the media council should monitor, supervise slippages and that it should enforce only moral sanctions, and subjecting to the public opprobrium - *name it and shame it* as some interviewees called the process. Respondents considered that it is needed some time to accommodate, where the self-regulatory system would not sanction, precisely as “*the guild must be cleaned of impostors and cheaters*” (S4). At the same time, the moral authority should find solutions for the economic and employers pressures to which the journalists are submitted, and that is because the sanctions will be imposed on the individual journalist and not to the media institution.

After the analysis of responses, most of the respondents agreed with the sanction of public reporting of slippage (public opprobrium)¹, as shown in the following *categories grid*:

Public opprobrium: *subjecting them to public opprobrium (S1); if he would release information that it would take an act of reprehensible press (S3); there is a circular kind, where all media are informed that this journalist has committed a slippage (S6); indicating with arguments the journalist who violated the code of ethics (S8); to make it public (S11); a public shame, name it and shame it (S14); that is all you can do “Name it and shame it”. You name him or you can put a limit between him and you. (S15).*

In this way, the obedience of the journalist to the **public opprobrium**, the employing media institution would be directly affected and monitored by the public interested in knowing how to solve the slippage. This would bring a plus or a minus to the credibility of the regarded media institutions, depending on the attention that they will give to the journalists’ accountability. The arrangements for public reporting of these *reprehensible press acts* proposed by respondents were those through press or circular releases, clearly showing who is to blame and what happened.

I still believe in common sense and I think delimitation and a reasoned indication of the journalist that violates the Code of Ethics should be enough. I do not think the license withdrawal would be something too dramatic, I do not believe in such solutions, I think that a rather public delimitation of such a character is more important. (S8)

Respondents considered appropriate for the disciplinary sanctions to be applied to journalist by the media institution where he works. Media Council will retain *only the attributions of moral instance*, to report and make public, and based on the decision of the council, that media institution will have to apply other sanctions. In this way, the accountability of the media institutions, from owners to editorial managers will be implicitly achieved.

The Labour Code in Romania provides to media institution, the disciplinary prerogative by which the employee may apply to the journalist, disciplinary sanctions whenever deemed to have committed a disciplinary offense. Misbehavior can be triggered whenever he does not met his obligations, under the

¹ The essence of accountability is to appoint, to shame and to apologize (naming, shaming and claiming) (Obuya, 2012, p. 17).

individual employment contract, the collective contract at mass-media sectoral level or he violates at fault the ethical standards set by the codes of professional conduct, such as the one annexed to the collective contract, in the case where the media institution has not joined to other media code of ethics. Respondents supported¹ this way of internal sanctioning of journalists.

We do not discover the wheel when we already are journalist and you already have the responsibility of writing, which would be a very serious matter, there are two types of sanction: the internal sanction applied by the editorial and the sanction that the prejudiced person demands in court. (...) (S9)

A final way of punishing, but also the most often mentioned by respondents, is the suspension and / or removal of the profession. This type of punishment is the extreme solution that can be reached and it seems that we have to resort to it, when self-exclusion no longer works. After analyzing the responses of respondents, there was a majority of their tendency to apply the sanction of public opprobrium conducted by the Media Council and the sanction of suspension or exclusion from the profession, as shown in the following categories grid:

Suspension or expulsion from the profession: *it relates to the access to the profession (S1); the sanction of exclusion from the profession (S2); reaching the point of temporary or permanent exclusion (S4); withdraw the press pass (S4); it should suspend the journalist (S6); should no longer find a vacancy (S7); suspension for a certain period of time (S7); you do not belong in this business (S9); press card withdrawal and the right to profess for a period of time (S10) to the exclusion (S11) the interdiction from further practice (S12); cannot work any longer (S13).*

The sanction **definitive exclusion from the profession** was one of the respondents' options, which can be applied, but after committing a serious disciplinary offense. Definitive exclusion from the profession is not a disciplinary sanction expressly provided for in the Romanian Labor Code, so it is necessary a specific regulation as for a lawyer or public notary professions there are specific rules setting the conditions for exclusion from the profession. Disciplinary sanctions provided for by the Labor Code stops only for the termination of the individual employment contract, i.e. dismissal.

The definitive exclusion from the profession is a more serious sanction, which requires withdrawal of press card (if the journalist has it) and prohibition of activity implementation and writing press materials. The definitive exclusion from the profession of journalist is difficult to achieve, on the one hand because some respondents say that it violates the right to freedom of expression, on the other hand this cannot be controlled as anyone can write anonymously on the Internet.

3.3. Funding Sources of the Moral Court

Such a council is in charged with the supervision and monitoring breaches of professional journalists norms and in order to analyze and sanction these slippages it is necessary to have a budget from which members can be paid. For this budget there is a need for certain funding sources that respondents found them to be the journalists' *contributions*² to the professional associations or unions and from

¹ **Internal Sanctioning:** *sanctioned disciplinary by the entity where they work (S14); there are disciplinary sanctions provided for in the Labor Code (S5); the internal sanction applied by the editorial (S9); sanctioning the reporter (S11); to sanction as a warning (S7); It would be the warning (S2); warnings (S10) the sanction that works best is the financial one (S12, perhaps a stoppage of pay (S13), for the second violation, the journalist would be dismissed (S6) contract termination. (S7)*

² **Contributions of journalists:** *by the actants sustaining that they are involved, the contribution of journalist members (S2); the journalists' contributions to association (S14); the associations of journalists, are paid by journalists based on subscription. (S8); A single annual fee, paid directly and immediately by each of journalists (S4); the contribution would be achieved (S7); by each of the journalists (S4).*

media institutions contributions¹ offered by employers' organizations. These professional organizations, trade unions and employers in turn must provide a fee (monthly or yearly) to this media council. In the case of journalists not affiliated to any association, they will have to pay that fee directly to the council. This is an advantage for increasing the associativity of journalists and implicitly the solidarity in the guild.

In relation to other stakeholders, such as companies, advertisers, respondents felt that their contribution is not suitable as conflicts of interest may arise. At the same time, however, it was noted the public interest that characterizes the media services provided by the council "*the product of this body is a public asset; you produce ethics, professional morals*" (S1). This could lead to state levies, collected from the taxes the population pays or from specific funds.

3.4. The Jurisdiction Area of the Moral Court

Respondents expressed largely the support for a media council that would carry out activities and expand their duties in the online and audiovisual media sector, as in terms of profession, the principles are the same regardless of the sector. Slippages are the same, with prevailing visibility in the television area and online press.

Total Competence: *it should cover the whole guild (S4); there is a moral court to judge all these products, whether it's print, online, TV, radio (S6); you must respect the same rules (S8); it is same thing (S10); the very serious slippages are in audiovisual media sector (S15).*

Respondents see no need for such an institution unless it is working properly, being dissatisfied with the operation of the CNA's (The National Council of Audiovisual). Considering transfer of the mass-media to online, the self-regulation system should function especially for the online area.

Regarding online self-regulation mechanisms, the Code of Good Practice, which is in force now in the UK has expanded the journalists' accountability also in the online versions of publications. In the preamble it specifies that editors and publishers must ensure that the Code's provision will be strictly respected by all editorial staff and external collaborators, including non-journalists, both for hard copies and online publications. The code provisions extend therefore more than it would seem at first glance, as it covers freelancers, photographs and reporters. Many of press councils cover both written press and audiovisual media, as it is the case of Finland and Denmark councils; others have competence only in the written press, as in the case of Sweden and the UK (Zlatev, 2011, p. 20). Thus, this alternative of self-regulation media, extended to the audiovisual and online media, has gained ground since it responds to many pressures that the media is facing, by the flexibility and the ability to meet the challenges of a changing industry.

Most respondents considered that the media council should focus only on issues within the guild, without having other roles in the Romanian society. However, there were respondents who considered that this moral court such as the media council, may have other duties related to the accountability of the press *such as training for young journalists*" to arm themselves with some correct tools and benchmarks in the early career." (S3)

¹ Contributions of media institutions: *a share from employers (S14); There are also employers' associations that can also contribute (S2); each media organization should contribute to this body (S10); media institutions concerned to clean the landscape. (S3); media trusts (S13); the press (S11).*

4. Conclusions

Some experts¹ consider that the press councils operate effectively in countries where there are other independent institutions, regardless of the field. Another view² is that the efficiency of such boards can be seen in civil society where the rule of law is respected and the mass-media manifests high standards. In an oppressive environment, such as the countries with tough laws and governing offenses against human dignity, the Press Council cannot be recognized and people resort to the courts. In Indonesia the press law approved in 1999 the creation of an independent press council needed to solve the press disputes release. In this country, the ambiguities left by the law still allow an appeal to the courts (Ristow, 2009, p. 23).

According to a 2002 study, *The Right to Tell* (apud Ristow, 2009, p.24), there are five factors that can determine the success of press councils and that we add to the prospect of a press council in Romania:

1. The intention to create a council must be a desire coming from inside the press. Government and NGOs can encourage its creation, but the impulse must come from the media;
2. The Council shall have the support of the media institutions obliged to respect them;
3. There must be a conduct and a genuine desire to improve the media profession;
4. There should be a Press code or something. Designing the ethical guidelines which balances the freedom of the press and it activates highly the accountability;
5. The standards should be applied consistently.

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¹ Joel Simon (Executive Director of the Committee to Protect Journalists), interview, taken from the study *Sword and Shield: Self-Regulation and International Media*, a report of the Centre for International Media Assistance (CIMA), author Bill Ristow, May 5, 2009.

² Drew Sullivan (Director of the Center for Investigative Reporting Center, Sarajevo, Bosnia-Herzegovina), interview, taken from the study *Sword and Shield: Self-Regulation and International Media*, a report of the Centre for International Media Assistance (CIMA), author Bill Ristow, May 5, 2009.