

# SOME ASPECTS ON THE CITIZEN'S RIGHTS. FREEDOM OF EXPRESSION AND PRESS (ARC OVER TIME: 1866 - 1991)

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## Abstract

*The enunciation principles of the French Revolution of 1789, equality, liberty and fraternity, have penetrated all the European countries of the nineteenth century, and continue to be the basic principles of all democratic societies even now, more than two centuries after the fall of the Bastille (July 14, 1789), symbol of the old regime, obtuse and dominating the world, with reminiscence of medieval Europe. Declaration of Human Rights and Citizen, developed and edited on 26 of August 1789, provides in its preamble that "... ignoring, forgetting or disregarding human rights are the only causes of public evils and corruption of governments ...", thus showing that man and his rights were to become the center of the universe.*

*It is necessary to start the analysis of political, cultural and constitutional life of Romania of the nineteenth century from these principles, because only thus will we will understand how the modern Romanian state formed, developed and evolved, first under the scepter of „The beloved prince of the Union”, Alexandru Ioan Cuza and then, during the great reign of King Carol 1st, during which, it was adopted on 1st of July 1866, the first deed with the status and name of the Constitution.*

*Over the years, exactly two hundred years after the French Revolution, Romanians cried their desire to live free in a country where human rights are respected and where access to information and freedom of expression must be met by fundamental Law. Our study comes to show the developments in the Romanian press of the two crucial moments in the historical development of Romania, respectively the first decade after the Constitution was adopted in 1866 and the first decade after December(1989).*

**Keywords:** history, law, Constitution, freedom, press

## Introduction

The enunciation principles of the French Revolution of 1789, equality, liberty and fraternity, have penetrated all the European countries of the nineteenth century, and continue to be the basic principles of all democratic societies even now, more than two centuries after the fall of the Bastille, symbol of the old regime, obtuse and dominating the world, with reminiscence of medieval Europe. Declaration of Human Rights and Citizen, developed and edited on 26 of August 1789, provides in its preamble that "...ignoring, forgetting or disregarding human rights are the only causes of public evils and corruption of governments..."<sup>2</sup>, thus showing that man and his rights were to become the center of the universe.

It is necessary to start the analysis of political, cultural and constitutional life of Romania of the nineteenth century from these principles, because only thus will we will understand how the modern Romanian state formed, developed and evolved, first under the scepter of Alexandru Ioan Cuza and then, during the great reign of King Carol 1st, during which, it was adopted on 1st of July 1866, the first deed with the status and name of the Constitution. The 1866 Constitution shows interests to civil rights, freedom of expression and, especially, freedom of the press. In this context we have to look at the huge number of publications that have appeared in the first decade after the

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<sup>2</sup> Apud Eleonor Focșeneanu, *Constitutional History of Romania, 1959 - 1991*, second edition, (Bucharest: Humanitas 1998), 7.

adoption of the Constitution, and to the emergence of writers as well, who would contribute to the affirmation of the Romanian spirit, if we think only Mihai Eminescu.

Over the years, exactly two hundred years after the French Revolution, Romanians cried their desire to live free in a country where human rights are respected and where access to information and freedom of expression must be met by fundamental Law. Our study comes to show the developments in the Romanian press of the two crucial moments in the historical development of Romania, respectively the first decade after the Constitution was adopted in 1866 and the first decade after December (1989).

The questions, justified, are related to similarities and differences between the two important moments of our national history - Alexandru Ioan Cuza's departure and the arrival of Prince Carol of Hohenzollern (Singmaringen branch)<sup>3</sup>, respectively the fall of the Ceausescu regime and the establishment, after more than four decades, of a democratic regime.

As a result of the blood tribute given by the young generation in December 1989 due to the courage and determination of young people dead in Timisoara, Brasov and Bucharest, the Romanians could manage to talk, meet and freely express themselves in free writing.

Undoubtedly, though hard to believe, there are strong similarities between the two important moments of the Romanian historical evolution, similarities related to the causes that led to the *outbreak of the need for freedom*, either if we talk about anti-democratic drift of the beloved prince of the Union, Alexandru Ioan Cuza, or if we refer to those 70 years of dictatorship of the last century (Royal dictatorship, between 1930 and 1940, military dictatorship of Antonescu, between 1940 and 1944, and especially the communism one, that ended in a brutal and bloody way, in December 1989). Both regimes have wanted - and managed more or less - to eliminate any obstacle, any barrier, any critical voice.

Prohibition of the three editorials in the last years of the reign of Alexandru Ioan Cuza and pressures to which journalists were subjected between 1864 and 1866 have found correspondence especially in the years of communist dictatorship, where any grind against those in power were simple night dreams.

It is true that dictatorial abuses of colonel Cuza are insignificant comparing to the communist totalitarian regime, just as it's true that, keeping the proportions (historical time, population, social and technical developments) the similarity is very high. Therefore, the will of freedom, the desire to be informed and to express yourself freely were equally legitimate both in the second half of the twentieth century, and in the panel's final of the second Christian millennium.

Because the freedom refers to spirit, and the spirit refers to God. Talking about civil liberties and freedom of the press at the time of 1855, Mihail Kogălniceanu said that "the press is the extended echo of the human speech, is the tribune of the voice of the crowd resounded to the ends of the civilized world; everything is done, everything they say, in the press, all that is discovered in any part of the world it is spreaded throughout the world and it is owned by the extent of mankind"<sup>4</sup>. In 1859, Dimitrie Bolintineanu considered that "freedom of thoughts it is a right that man is born with, it is for the spirit what is the free movement for the body, and the nation and the laws established by the men adjust the course and sets its limits"<sup>5</sup>.

### 1.1. CONSTITUTION OF 1866 AND PRESS FREEDOM

Constitution of 1866 it is considered as one of the most democratic and visionary fundamental laws of Europe in the second half of nations, inspired by the Belgian Constitution of 7 February

<sup>3</sup> Mihai Bărbulescu et al., *History of Romanians* (Bucharest: Corinthian Publishing 2003), 311.

<sup>4</sup> Mihail Kogălniceanu, *Profession of Faith* (Bucharest-Chisinau: Litera International, 2003), 174.

<sup>5</sup> Marian Petcu, *History of the Romanian press* (Bucharest: Triton, 2002), 53.

1831.<sup>6</sup> Entry into force of the Constitution on 1 July 1866, introduces for the first time the provision according to which "Romanians enjoy freedom of conscience, freedom of education, press freedom, freedom of assembly"<sup>7</sup>. That was the evidence of the fact that European and reformist spirit of the nineteenth century entered the Romanian territory too, through the Constitution of the new state, which hasn't gained its independence yet, but that acts independently.

Constitution of 1866 enshrines the Romanian national state, proclaiming a constitutional monarchy on the grounds of separation of powers as well as the rights and freedoms of the citizens. By means of its content and form, it can be considered the first Constitution of Romania. By means of its essence, it is a modern, democratic constitution.<sup>8</sup> The emergence of the two major political parties - the conservative and liberal - was a consequence of the fundamental ideas of the French Revolution and guaranteed by the fundamental act of the new state until the development of the Constitution of 1923.

The most sensitive areas of constitutional amendments were undoubtedly those of freedom of opinion and freedom expressed especially through the press.

Evolution of the daily press would highlight the ascendant trend of Romanian society, although attempts to suppress freedom of expression, due to political passions have existed even after 1 July 1866.<sup>9</sup> However, we cannot say that abuses were widespread and that freedom of expression of Romanians was restricted. As a result of the Constitutional provision, the Romanian press was becoming one of the power of the young state, freedom of the press being inspired "by the formula of Thiers, who qualify the intention of undermining press freedom as a <<murder>> because <<the civilization is its creation>>"<sup>10</sup>. Constitutional guarantees were given by the provisions of Article 24 according to which "the Constitution guarantees to all citizens the freedom to communicate ideas and opinions and publish them through speech, through writing and through the press,"<sup>11</sup> each citizen being responsible for his actions before the law, but "no censorship or other preventive measure for the development, sale or distribution of any publications will be able to re-establish it"<sup>12</sup>. Therefore, the right to free speech was guaranteed by the Fundamental Law. These provisions were put into practice by the emergence of an impressive number of publications; approximately 250 magazines and editorials made their appearance on the Romanian market in the period 1866-1877, even if it was a change of name or recurrence of the same title.<sup>13</sup>

At first shy appearances only in Bucharest and Iasi, and shortly, to expand in most major cities in more than 26 centers.<sup>14</sup> Also during this period, some major national periodicals have come on the market with provincial editions, such as "Informatia Bucurestiului" newspaper published between 1869 and 1872, which had editions in Iasi and Galati. In 1872, appears the first evening editorial at Focsani, entitled "Patria". Some periodicals have had a short life, being published between half a year and, in the happiest situation, few years, depending on the quality of journalists and the interest or potency of their owners. There have been few publications that have resisted and had continuous appearances. Political press demanded their rights of suzerain power, especially as a result of crystallization of the two major political poles: conservative and liberal.

<sup>6</sup> Focșeneanu, *Constitutional History of Romania*, 7.

<sup>7</sup> \*\*\*1866 Constitution.

<sup>8</sup> Emil Cernea and Emil Molcuț, *History of the Romanian State and Law* (Bucharest: Juridical Univers, 2006), 275.

<sup>9</sup> Vasile Pasailă, *Press in the modern history of the Romanians* (Bucharest: PRO Foundation, 2004), 84.

<sup>10</sup> *Ibidem*, 83.

<sup>11</sup> \*\*\*1866 Constitution.

<sup>12</sup> *Ibidem*.

<sup>13</sup> \*\*\*, *History of Romanians Vol VII, Tom I: Formation of Modern Romania* (Bucharest: Encyclopedic, 2003), 842

<sup>14</sup> *Ibidem*.

Political struggle moved in a short time in press area not just on the political scene but in the street as well. Thus, the main editorial of the radical liberal became the newspaper "Romania", reappeared after 1866, a redoubt against the power, either liberal-moderate or conservative.<sup>15</sup>

"Romanul" was followed in the support of the liberal ideas by the "Perseverenta" appeared between 1867 and 1869, and "Democratia" liberal newspaper appeared, in Ploiesti, between 1869-1871. Both newspapers were edited by Al. Candiano - Popescu.<sup>16</sup> Political conservatism was served by the "Pressa", published between 1868 - 1881, "Terra" (1867 - 1870) and, especially, "Timpul", edited from 15 March 1876 where pillars of the Romanian culture went to journalism school - Slavici, Caragiale and Eminescu, who was editor of "Timpul" between 1880 and 1883.<sup>17</sup> "Trompeta Carpatilor", edited by Cezar Bolliac, "the Telegraful de Bucuresti" of I.C Fundescu, or "Reforma" of Valentineanu were left-wing newspapers. Also on the left wing were the workers periodicals "Analele tipografice", "Uvrier", "Lucratorul roman" or "Lucratorul", with sporadic appearances between 1869 and 1872. In 1877, the year when Romania declared its independence from the Ottoman Empire, appeared on the Romanian press the newspaper "Socialistul", the first socialist newspaper, but after just three numbers, had ceased operations. The newspapers belonging to national minorities have been published due to the freedom of expression guaranteed by the Constitution of 1866, in Bucharest and small Romania there were newspapers in French, German, Hungarian and Italian, Hebrew newspaper, three titles published by the Greek minority and 23 titles of the Bulgarian media. Scientific media, cultural and humoristic had a great evolution. Thus, by courtesy of the legislature, were found over 30 titles of humorist newspapers and 80 cultural and scientific newspaper, among which has been noted "Convorbiri literare", a journal published on 1 March 1867, in Iasi, under "Junimea" and that will dominate for two decades, the entire Romanian cultural press.

Ancient Mother of the Romanian people-as Mihai Eminescu called the Orthodox Church-could not stand aside to express herself through the written word; At 1 / 13 October 1874 it began its long existence, "the Romanian Orthodox Church", newspaper of our national Church.

But political power, either conservative or moderate, could not sit idly by, expressing itself, apart from periodicals which supported one or the other political poles, through 30 newspapers official and unofficial as well.<sup>18</sup> As a conclusion of the first period analyzed, we may say that press freedom has played an important role in the crystallization of national consciousness of the Romanians in the second half of the nineteenth century, in the foundation of the national state, in gaining the state independence, which was earned due to the brilliant writers that have served their apprenticeship in the press emanating as a result of the Constitution of 1866.

Because the spirit of a nation and, especially, the educating of this spirit, is given by mass culture and mass culture can be done only through the media, for "periodical press, which in democratic countries is called the fourth power of the state, and in all over the world, even in the places ruled in the most despotic way, came to be a need for governments and peoples"<sup>19</sup>, being a manifestation of the spirit, which "came to be such great power and sometimes more terrible than any other".<sup>20</sup>

<sup>15</sup> Pasailă, *Press*, 85.

<sup>16</sup> \*\*\*, *History of Romanians*, 842 - 843.

<sup>17</sup> Pasailă, *Press*, 85.

<sup>18</sup> \*\*\*, *History of Romanians*, 842 - 843.

<sup>19</sup> Kogălniceanu, *Profession*, 174.

<sup>20</sup> *Ibidem*.

## 2.2. ELEMENTS OF THE RIGHT TO FREEDOM OF EXPRESSION AFTER THE 1989 REVOLUTION

After 123 years of the adoption of the Constitution of 1866, which allowed the explosion of the number of newspapers and magazines, another important moment in Romanian history was to come. Gorbachev's Glasnost and Perestroika brought the debate of the very existence of the Soviet Union and Communist Bloc. The year 1989 was to produce, one by one, the change of the socialist regimes in Eastern Europe and the fall of the Iron Curtain, about which Winston Churchill talked about in 1946. Romania was part of the trajectory of change imposed by those times, too.

Revolutionary events of December 1989 would end 45 years of communist dictatorship, would break ties with a past that has meant, at least in its first part, an era of destruction of Romanian values, an era of national culture harvest peak. The causes that led to the outburst of feelings of freedom and democracy, to the blast of the end of the year 1989 in Romania, were even more widely, the same as those which have led to the forced abdication of Cuza, to the foreigner coming to the throne and Constitution adopted in 1866. A relevant and objective analysis of the Revolution may not yet be made, requiring the passing of the time, the emergence of yet secret documents, the exchange of generations ... What we can do however is to note that the Revolution (by some), or coup d'etat (by others), contributed decisively to change the course of history of the Romanian people. An important aspect of the revolutionary conquests was the right to liberty.

Romanians fought in December 1989 not only for bread, cola or chewing gum, but especially for DEMOCRACY and FREEDOM. The 2-hour television program of the only existing television, the tributes to the dictator's couple and the amputation of any nerve of resistance were the decisive elements of triggering events in the late '80s. Among the freedoms gained by the Revolution, freedom of expression was perhaps the most important gain of all.

Since the days of the events of December 1989, the power legitimized by the revolutionaries - the National Salvation Front - issued legally binding provisions, which provided, inter alia, "the promotion of a humanistic and democratic ideology, the true values of humanity. Remove the untruth and the imposture, deciding the criteria of competence and justice in all spheres of activity"<sup>21</sup>, especially "freedom of press, radio and television, shifting it in people's hands"<sup>22</sup>, provisions which were taken after from the Constitution then validated by referendum on 8 December 1991.<sup>23</sup>

Under Article 80 of Decree - Law no. 92/1990, the Parliament elected in Romania on May 20, 1990 had an important task to develop the new Constitution of Romania after the removal of the communist regime. The new Parliament, elected on 20 May 1990 in the Constituent Assembly was formed and preceded to editing the new Constitution which was approved by referendum on December 8, 1991. 1991 Constitution is the Constitution of a democratic and social state of law, in which the dignity of human personality, the rights and freedoms, the development of human personality, the justice and political pluralism represent supreme values and are guaranteed.<sup>24</sup>

Through the development, adoption and entry into force of the Constitution, Romania broke the connection with its past, whether the democratic interwar period, or its Communist period. Despite appeals and sometimes confusing provisions, the Constitution of 1991 brought a new pulse in Romanian life, especially concerning freedom of expression. Freedom of expression is the ability of citizens to express through speech, writing, pictures, by sounds or other means of public communication, thoughts, opinions or beliefs and creations of any kind. However, the formulation of broad constitutional matters covered expresses the impossibility of all spiritual creations of the

<sup>21</sup> Decree – Law no. 2/1989.

<sup>22</sup> *Ibidem*.

<sup>23</sup> Focșeneanu, *Constitutional History of Romania*, 148.

<sup>24</sup> 1991 Constitution.

inquisitive human mind can imagine and realize.<sup>25</sup> 1991 Constitution forbids censorship of any kind; this prohibition is not applicable to professional censure, which remains desirable to educate the nation.

However, freedom of expression is not absolute and as such is subject to restrictions relating to defamation of the country and the nation, any instigation to a war of aggression, hatred, racial, class, religious incitement to discrimination, separatism or territorial public violence and obscene contrary to morality.<sup>26</sup> Thus, Article 30 and 31 of the post-revolutionary Constitution were fully dedicated to freedom of expression<sup>27</sup> and right to information<sup>28</sup>. Paragraphs (a), according to which "freedom of expression of thoughts, opinions or beliefs and freedom of any creation, by words, writing, pictures, by sounds or other means of communication in public are inviolable" (2), which stated that the censorship is prohibited, both in Article 30 and paragraph (a) of Article 31, which stated that "the right person to have access to any information of public interest can not be restricted" are considered to be legislative instruments related to the development of unprecedented post-revolutionary Romanian media.

Long expected freedom was to find in the first decade after 1989 the largest manifestation in the pages of the newspapers, and since 1990s, newspapers gave away its place to the TV, observing in the same time, a collapse of the newspapers. Now, the only publications capable to support themselves are the tabloids. Thus, in 1990 or 1992 media provided broad social and political spaces to analysis, cultural differences, the debate between the old and the new generation, among poets and anticommunists, in a word, the space was intended for discussion of substantive journalism. Soon, however, the freedom was to go, either from economic interest or the desire to create the rating into filthy areas of pseudo-journalism, turning now into an instrument of stupidity that Sartori was talking about.

Evolution of the Romanian press, in the titles and circulation, would know a winding course from the 1468 titles in 1990, at 1205 in 1992, to reach, in 1994 to 967 titles, then climbed in 1997 to 1855 titles, but with continuing declines in the circulation of material media ("The Truth" - from 2 million copies in 1990 to about 200,000 in 1992, while "Romania Libera" went down from 1, 5 million to just over 100,000 copies, and all other newspapers as "Dreptatea", "Azi" or "Tineretul liber" collapsed from over half a million copies a circulation below 100,000 copies).<sup>29</sup> The important names of the daily press are: "Adevarul", "Libertatea", "Evenimentul Zilei", and the weekly will remain "Academia Catavencu", "Formula AS", "Romania Mare" (with over 1 million copies in the period 1990 - 1992), names that remain today, despite the economic pressures imposed by the taste of the reader.

A special segment of the Romanian press was the post-revolutionary audio-visual media. Shy at first, the appearance of private television at the national and local level were to change completely the need for informing and educating the population. Thus, TVs like Pro TV, Antena 1, OTV, Prima TV or B1 TV will be imposed, assuming control of Romanian media. It is noteworthy that the Junimea generation and the epigones of Eminescu of the nineteenth century is now the generation PRO or generation "From Love".

A major chapter of the written press since December 1989 is for confessional media, especially those published by the Romanian Orthodox Church, whether we talk about newspapers and magazines of the Holy Synod of the Romanian Christian Church, or those issued by the Metropolitan, Archbishops and Orthodox Bishops in the country or abroad - a total of 50 titles. Since

<sup>25</sup> Gheorghe Iancu, *Constitutional Law and Political Institutions* (Bucharest: Lumina Lex, 2002), 175.

<sup>26</sup> 1991 Constitution.

<sup>27</sup> 1991 Constitution.

<sup>28</sup> 1991 Constitution.

<sup>29</sup> Pasailă, *Press*, 266.

December 29, 1989 comes the periodical of the Church, theology and spirituality "Vestitorul Ortodoxiei" published by the Romanian Patriarchy.<sup>30</sup>

Other titles that have been noted were: "Ortodoxia", journal published by the Romanian Patriarchy, whose new series was published from January to March 1990, "Tomisul ortodox", published by the Archdiocese of Tomis from April 1990 "Glasul adevarului", which appears in Buzau, "Candela Moldovei", publications of the Metropolitan Archdiocese of Moldova and Bucovina and Suceava and Radauti, occurring in Science, since 1992 and Suceava, in 1991, "Renaissance" of the Archdiocese of Vad, Feleac and Cluj, which occurs in 1991, or "Christian fortress", edited since 2002 by the Archdiocese of Craiova, etc..<sup>31</sup>

## Conclusions

Discussions related to freedom in general and freedom of the press, in particular, will continue without to exhausted the subject. Through this study, with its good and bad, we try to mirror two worlds, two basic stages of historical evolution of the Romanian people. Although separated by more than a century, the two Constitutions are guided by the same principles that have their origin in the principles of the French Revolution enunciation of 1789 - equality, fraternity, liberty.

We can easily see that freedom is the fundamental need, regardless of time and space, regardless of age group or social class from which these freedom seekers come. On two conditions: that the informant is honest and informative (container) to be educated and know what to choose, because, otherwise, both will become tools of manipulation.

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<sup>30</sup> Ilie Rad, *Cultural journalism in actuality* (Cluj-Napoca: Tribune, 2005), 23.

<sup>31</sup> *Ibidem* 24-41.