[RO] Audiovisual Media Licence Suspension upon Insolvency Proceedings

IRIS 2013-10:1/35

Eugen Cojocariu
Radio Romania International

On 9 October 2013, the Romanian Ombudsman challenged an Emergency Decree before the Constitutional Court - namely the *Ordonanţa de urgenţă a Guvernului nr. 91/2013 privind procedurile de prevenire a insolvenţei şi de insolvenţă* (OUG - Government Emergency Decree no. 91/2013 on the procedures to prevent insolvency and on insolvency - OUG 91/2013). The Ombudsman claims that the Emergency Decree violates Articles 1(5) and 15(2) of the Romanian Constitution and the prohibition of retroactive legislation. The OUG 91/2013 had been adopted by the Romanian Government on 2 October 2013 and published in the Official Journal of Romania no. 620 of 4 October 2013.

The OUG was harshly criticized by the President of Romania, by non-governmental civil rights organisatioins such as Reporters Without Borders, ActiveWatch and the *Centrul pentru Jurnalism Independent* (Center for Independent Journalism), the *Uniunea Judecătorilor din România* (Judges Union of Romania), as well as by Romanian media corporations, journalists and an opposition party. Two stipulations are subject to criticism: Articles 81(3) and 384(2) OUG. According to the critics, they might trigger discriminatory and abusive measures against audiovisual media companies facing insolvency.

The Romanian Prime Minister welcomed the action taken by the Ombudsman and also welcomed the diverse political opinions on the topic and the legal discussion.

The contested Article 81(3) foresees that, following the opening of the insolvency proceedings and until confirmation of the reorganisation plan, the audiovisual licence of the debtors is suspended. The licence granted under *Legea Audiovizualului nr. 504/2002* (Audiovisual Law no. 504/2002) will cease to be effective by the date of notification received from the *Consiliul Naţional al Audiovizualului* (National Council for Electronic Media - CNA). Article 81(3) OUG also requires the reorganisation plan to regulate the conditions for the future exercising of the right to broadcast, a specific programme plan, and that the conditions are formally approved by the CNA.

Article 384(2) provides that the Insolvency Code, meant to enter into force on 25 October 2013, would also take effect retroactively for media corporations currently subject to insolvency proceedings.

© European Audiovisual Observatory (Council of Europe) 2026

According to the critics, the OUG is discriminatory against audiovisual media in bad economic shape. They argue that the provisions of the OUG threaten media freedom and the public's right to information. The Audiovisual Law entails no rules on suspension of audiovisual licences. It only foresees withdrawals, extensions or, as a sanction, halving of licences.

Ordonanţa de urgenţă a Guvernului nr. 91/2013 privind procedurile de prevenire a insolvenţei şi de insolvenţă

http://www.avocatnet.ro/UserFiles/articleFiles/1381093200_legea%20insolventei.htm

Government Emergency Decree no. 91/2013 on the procedures to prevent insolvency and on insolvency - OUG 91/2013

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026