



# OPINION

European Economic and Social Committee

## Securing media freedom and diversity in Europe

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[own-initiative opinion]

**SOC/635**

Rapporteur: **Christian MOOS**

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## 1. Conclusions and recommendations

- 1.1 Media freedom, including the safety and security of journalists, and media pluralism are cornerstones of liberal democracy as agreed by all Member States in the EU Treaties.
- 1.2 While Europe overall remains a continent with free and diverse media, the developments within the EU are alarming. Some EU Member States are no liberal democracies anymore, bringing independent media under political control and actively limiting the diversity of media.
- 1.3 Threats to media freedom and declining media pluralism are not confined to a few Member States, but a general trend across the EU. All Member States urgently have to take steps to preserve media freedom and media plurality.
- 1.4 As some Member States are unwilling to adopt the necessary measures, it is the EU institutions' obligation to enforce European values and guarantee the functioning of liberal democracy and the rule of law in all EU Member States.
- 1.5 Key challenges include the guaranteeing of the safety, security and independence of journalists in all Member States at any time, the shielding of independent media from political influence and steps against shrinking media plurality driven by political willingness and economic imperatives.
- 1.6 The EESC welcomes the broad range of reports and initiatives by the European Parliament<sup>1</sup> and the Commission; however, it underlines that achieving concrete improvements concerning media freedom and plurality on the national level is the major task ahead as underlined in the annual report 2021 by the partner organisations to the Council of Europe Platform to Promote the Protection of Journalism and Safety of Journalists<sup>2</sup>.
- 1.7 The EESC calls on the Commission to use Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget without delay to address the acute threat to media freedom and pluralism in some Member States.
- 1.8 The EESC welcomes the Commission's plan to propose measures for increasing the safety of journalists and underlines the necessity of a legal ban on Strategic Lawsuits Against Public Participation (SLAPP).
- 1.9 The EESC calls on the Commission to make public procurements in the media sector and public support to media companies more transparent and fair.
- 1.10 The EESC strongly supports the Commission's plan for a "European Media Freedom Act" to equip the Commission with effective legal instruments to enforce media freedom and media pluralism in the Common Market.

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<sup>1</sup> Report by Magdalena Adamovicz MEP, EP – European Parliament resolution of 25 November 2020 on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms.

<sup>2</sup> <https://www.coe.int/en/web/media-freedom>.

- 1.11 The EESC considers impartial public support to media companies an investment in quality journalism, just as independent and impartial public broadcasting companies are an indispensable contribution to media plurality.
- 1.12 The EESC proposes the creation of a fully independent European public service broadcaster.
- 1.13 The EESC underlines the importance of further developing media literacy and supports the proposal to set up a 'European Agency to bolster media skills of EU citizens through educational programmes.

## 2. **Media freedom and diversity as a prerequisite for democracy**

- 2.1 Article 19 of the Universal Declaration of Human Rights (UDHR), Article 10(1) of the European Convention on Human Rights (ECHR) and Article 11(1) of the Charter of Fundamental Rights of the European Union (CFR) guarantee the right to seek, receive and impart information and ideas without interference by public authorities and regardless of frontiers. Media independence and diversity are essential to guarantee this freedom of information.
- 2.2 The media freedom and pluralism guaranteed by Article 11(2) CFR are also a prerequisite for democracy. They must be respected at all levels so that citizens of the Union can effectively exercise their right to participate in its democratic life, as enshrined in Article 10(3) of the Treaty on European Union (TEU).
- 2.3 A diverse media landscape, alongside political parties and civil society, makes an indispensable contribution to the formation of opinions and intentions in democratic decision-making processes.
- 2.4 Independent media make an indispensable contribution to the implementation of the principle of transparency to which the Union institutions and other bodies are bound by Article 15 of the Treaty on the Functioning of the European Union (TFEU).
- 2.5 As the "fourth estate", investigative journalists perform a watchdog role over the actions of the executive, legislative and judicial branches, as well as private entities. In so doing they increase the accountability of elected decision-makers at all levels.
- 2.6 Member States in which media freedom or diversity is restricted are not democracies and infringe EU values (Article 2 TEU) and aims (Article 3 TEU).
- 2.7 Though some EU Member States continue to be among the global frontrunners in guaranteeing media freedom and diversity, threats to media freedom and declining media pluralism in the EU are not confined to individual countries – adverse trends are evident in differing degrees across the EU.

- 2.8 The internal decline of media freedom and media pluralism undermines the EU's ability to support democracy in its neighbourhood, where recent crises in some states have shown that the situation concerning media freedom, media plurality and the security of journalists is even worse in some countries.
- 2.9 Some EU Member States have now left the circle of democratic states and in the past decade have manifested the most rapid development towards autocracy in the world. Curtailing media freedom and diversity has been a feature of this development.
- 2.10 The pandemic has further accelerated this development or has been used to legitimise further inroads into media freedom.
- 2.11 Reporters without Borders' "World Press Freedom Index 2021" as well as the Freedom House annual Freedom and the Media and Freedom on the Net reports clearly show that the " EU struggles to defend values at home"<sup>3</sup>.

### 3. **Threats to media freedom and diversity**

#### 3.1 The threat to journalists

- 3.1.1 For the media to fulfil their mission, journalists must be able to work unhampered and be confident that they are at all times fully protected as individuals by the EU and all its Member States. This is now no longer the case.
- 3.1.2 Since 2015, at least 16 journalists have been killed in the EU in the course – or as a result – of their work. Daphne Caruana Galizia, Giorgos Karaivaz, Ján Kuciak and his fiancée Martina Kušnířová and Lyra McKee, Peter de Vries and their colleagues must not be forgotten.
- 3.1.3 Journalists are increasingly exposed to verbal and physical attacks and coverage of protests and demonstrations in particular is becoming more dangerous, with the danger coming from both demonstrators and the forces of law and order. With more than a hundred cases related to the pandemic, the threat has reached new proportions in Europe<sup>4</sup>.
- 3.1.4 In some European non-EU countries the situation of journalists is catastrophic; the drastic developments against independent journalists in Belarus is a very alarming example.
- 3.1.5 Social media and the group dynamics seen there lower the threshold for harassment and threats. Some coordinated campaigns exist aimed at hindering the work of the media or individual journalists. This raises the question of a possible need to regulate social media platforms without restriction of fundamental freedoms.

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<sup>3</sup> Reporters without Borders: 2021 World Press Freedom Index, <https://rsf.org/en/ranking> (accessed: 24 May 2021).

<sup>4</sup> International Press Institute: COVID-19: Number of Media Freedom Violations by Region, <https://ipi.media/covid19-media-freedom-monitoring/> (accessed: 8 April 2021).

- 3.1.6 Female journalists are more likely than their male colleagues to be targets of verbal and physical attacks, as well as of online harassment and threats, which are often misogynist, sexual or macho in nature.
- 3.1.7 In some Member States, measures to counter disinformation and bans on libel are designed so they can be used to criminalise critical reporting and threaten journalists with incarceration or hefty fines.
- 3.1.8 Strategic Lawsuits Against Public Participation (SLAPP) are increasingly used to silence civil society stakeholders and journalists.
- 3.1.9 The current economic challenges faced by media companies have led to cuts in the number of journalists in regular employment. For freelance journalists who are increasingly precarious and vulnerable, legal disputes pose a threat to livelihoods even if the claims introduced are unfounded.
- 3.1.10 In particular at local level there are unprecedented "news deserts" and often independent media are replaced by so-called municipal news, free newspapers, which are owned by local economic and political elites and can endanger media freedom and pluralism.
- 3.1.11 The purpose of the threats is to induce self-censorship. They undermine media freedom in Europe.
- 3.2 Threats to media freedom
- 3.2.1 In order for the media to operate freely, the legal framework guaranteeing their freedom and diversity must ensure that journalists and media companies can carry out their work free of political interference.
- 3.2.2 There are serious concerns in a number of Member States about the independence of media regulators, which in some cases serve as a de facto tool for governments to exert influence on the media landscape. Truly independent bodies for the voluntary self-regulation of the media can be a means of shielding media from political influence.
- 3.2.3 Some Member States use discriminatory tax legislation and targeted advertising budgets to influence the media.
- 3.2.4 Some Member States have used the danger of spreading disinformation about the pandemic to legitimise restrictions on press freedom to prevent critical reporting of the management of the crisis.
- 3.2.5 Public media under direct political control or under indirect political control through supervisory bodies which are not run in full respect of journalistic freedom are a serious threat to media freedom. There are mounting attempts to exert direct political influence over the coverage of independent media, as well as verbal attacks by politicians and legal action against critical media and journalists.

3.2.6 In several Member States, excessive proximity of media entrepreneurs to the government or those it has placed in government offices, as well as ownership by political parties or states of media companies with an unduly high market share, lead to sizeable restrictions on media freedom and diversity.

3.2.7 Even in functioning liberal democracies, the existence of independent and impartial public service broadcasting as a guarantee of diversity of opinion is being questioned and calls are being made for political influence over the composition of the programmes and over the content distributed.

### 3.3 Threats to media diversity

3.3.1 Over the past three years, consolidation in the EU media market, including the advertising market and distribution channels, has risen notably and constitutes a medium or high risk to media freedom across the EU, according to the 2020 Media Pluralism Monitor<sup>5</sup>.

3.3.2 Changes in media usage patterns as a result of the digital revolution are calling into question the business models of the established media. Newspapers and small media outlets at local level, which are a backbone of media diversity in the EU, are particularly affected. They are becoming easy targets for politically driven consolidation.

3.3.3 The ever growing importance of digital media increases the market power – and hence influence on opinions – of large platforms, which as foreign companies often circumvent European regulation.

3.3.4 The economic consequences of the pandemic, in particular the fall in advertising revenues, are accelerating ongoing changes in the media market and further constraining media diversity.

## 4. Recommendations to strengthen media freedom and diversity in Europe

### 4.1 General recommendations

4.1.1 The EESC notes that individuals and governments who cast doubt on the freedom or pluralism of the media by their words or actions are unsuitable to chair either the EU institutions or their preparatory bodies or to represent the Union.

4.1.2 The EESC welcomes the fact that Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget<sup>6</sup> strengthened the corrective arm of the rule of law toolbox, including media freedom and pluralism.

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<sup>5</sup> Elda Brogi et al. 2020: Monitoring Media Pluralism in the Digital Age. Application of the Media Pluralism Monitor in the European Union, Albania and Turkey in the years 2018-2019, Fiesole, p. 50.

<sup>6</sup> [OJ L 433, 22.12.2020, p. 1.](#)

- 4.1.3 The EESC welcomes the fact that the European Commission's Rule of Law Report, including country monitoring on media pluralism and media freedom, and the debate in the Council of the European Union have also strengthened the preventive arm of the rule of law toolbox in the EU.
- 4.1.4 The EESC calls for the effectiveness of the preventive arm to be strengthened by the inclusion in future of Member State specific reform recommendations in the country chapters of the Rule of Law Report, the implementation of which will be evaluated in the report from the following year.
- 4.1.5 The EESC is committed to making the protection of media freedom and diversity a focus of the Conference on the Future of Europe in order to raise awareness of the importance of this challenge and to further intensify the debate on the necessary measures.
- 4.2 Recommendations on the protection of journalists
- 4.2.1 The EESC stresses that the best protection for journalists is the rigorous prosecution of all cases of harassment, threats and attacks against them.
- 4.2.2 The EESC calls on the Commission to use Regulation (EU, Euratom) 2020/2092 on a general regime of conditionality for the protection of the Union budget without delay to address the acute threat to media freedom and pluralism in some Member States. This clearly includes the denial of access to European funding for Member States which infringe against media freedom.
- 4.2.3 The EESC supports the European Parliament's position<sup>7</sup> of bringing an action under Article 256 TFEU in the event of the Commission's failure to act.
- 4.2.4 The EESC welcomes the Commission's plan to make tangible proposals for the consistent implementation of the Committee of Ministers Recommendation on the protection of journalism and the safety of journalists and other media actors<sup>8</sup> in all EU Member States and to monitor compliance with it in the ambit of its Rule of Law Report.
- 4.2.5 The EESC welcomes the Commission's commitments to providing financial support for projects concerning the legal and practical protection of journalists and suggests that, in addition, consideration be given to ways of ensuring that the Member States' social security systems cover the professional risks of – in particular freelance – journalists.
- 4.2.6 The EESC points out that Member States' security authorities are obliged to protect journalists. It proposes stepping up police training in dealing with journalists, with the involvement of press associations and journalists' organisations, in order to promote the exchange of best practice.

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<sup>7</sup> [P9\\_TA\(2021\)0103](#).

<sup>8</sup> [CM/Rec\(2016\)4](#).



- 4.2.7 With regard to the protection of journalists from harassment and threats online, the EESC draws attention to its opinion on tackling illegal content online<sup>9</sup> and highlights their particular vulnerability because of their highly visible public role.
- 4.2.8 The EESC points out that any measures to be adopted must cater for gender equality and the protection of journalists belonging to minorities.
- 4.2.9 The EESC recognises that the guarantee of the principle of transparency and the right to freedom of information has seen improvement at EU level, but not in all Member States. It calls on all Member States to comply unfailingly with EU standards and points to the need for further improvement, including at EU level<sup>10</sup>.
- 4.2.10 The EESC welcomes the establishment of the expert group on SLAPP and the Commission's plan to put forward a proposal by the end of 2021 to protect journalists and civil society from SLAPP. It believes that a legal ban on SLAPP takes precedence over complementary measures to support those affected.
- 4.2.11 The EESC underlines the importance of initiatives from civil society, such as the Coalition Against SLAPPs in Europe (CASE),<sup>11</sup> to protect journalists from SLAPP and calls for increased EU support.
- 4.2.12 The EESC notes that, in relation to SLAPP, the provisions of the Brussels I<sup>12</sup> and Rome II Regulations<sup>13</sup> must not lead to a reduction in legal protection through the choice of jurisdiction for vexatious legal cases (libel tourism). It stresses the need to bear this issue in mind in the forthcoming review of the two regulations.
- 4.3 Recommendations for strengthening media independence
- 4.3.1 The EESC calls on the Commission to complement the methodology of the Rule of Law Report by evaluating the independence of state and public broadcasting.
- 4.3.2 The EESC points out that the effective prosecution of corruption affords some protection against government interference in the media and therefore calls on the Commission, in addition to enforcing anti-corruption standards, to take all necessary measures, regardless of political considerations, to ensure that no money is used from the new Multiannual Financial Framework and the NextGenerationEU recovery instrument to curtail media diversity or on other forms of corruption.

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<sup>9</sup> [OJ C 237, 6.7.2018, p. 19.](#)

<sup>10</sup> [OJ C 487, 28.12.2016, p. 51;](#) [OJ C 13, 15.1.2016, p. 192.](#)

<sup>11</sup> <https://www.the-case.eu>.

<sup>12</sup> [OJ L 351, 20.2.2012, p. 1.](#)

<sup>13</sup> [OJ L 199, 31.7.2007, p. 40.](#)

4.3.3 The EESC calls on all Member States to establish national transparency registers along the lines of the European Transparency Register, since these also make contacts between politicians and media entrepreneurs transparent. Transparency registers should be incorporated into an EU-wide multilevel transparency register.

4.3.4 The EESC calls on the Commission to explore whether the pilot project for the creation of a publicly accessible database of information on ownership in the media economy can be developed in such a way as to include information on the promotion and contracting of media companies by the EU, its Member States, regional and local authorities, bodies governed by public law, public undertakings and private undertakings in which one or more of these entities hold a majority of voting shares.

4.3.5 The EESC calls on the Commission to come forward with a proposal for EU-wide minimum standards for all public procurement and supporting of media companies by the entities mentioned in point 4.3.4.

4.3.6 The EESC welcomes the Commission's proposals to tackle disinformation in general<sup>14</sup> and in relation to COVID-19 on social media<sup>15</sup>, but points to the risk that Member States may use the fight against disinformation to justify restricting media freedom. The phenomena of disinformation and hate speech urgently need to be looked at in depth inter alia in further EESC opinions.

#### 4.4 Recommendations for strengthening media diversity

4.4.1 The EESC is critical of the fact that the Commission's Rule of Law Report reduces the question of market pluralism to the matter of transparency in media ownership and neglects the degree of market consolidation. It calls on the Commission to adapt the methodology of the report in order to better mirror in future the extent to which media diversity is at risk in all Member States.

4.4.2 The EESC welcomes the Commission's "Europe's Media in the Digital Decade" action plan<sup>16</sup> and its goal of preserving news media as a public good, in particular the provision of European support to prevent media diversity from being curtailed by the fallout of the pandemic.

4.4.3 The EESC underlines that quality journalism requires a sustainable economic basis and calls for a continuation of EU support to media companies as an investment in good journalism. Investments will serve to end the process of consolidation in the media sector, which threatens the plurality in the media market. This does not rule out the ability of media companies to legitimately purchase other media outlets or build strategic alliances as economically sustainable media companies are a guarantor of their independence, as long as the principle of transparency is respected and no monopolies are created.

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14 [COM\(2020\) 790 final](#).

15 [JOIN\(2020\) 8 final](#).

16 [COM\(2020\) 784 final](#).

- 4.4.4 The EESC notes that the value of media companies lies in their diversity and that the creation of "national champions" destroys this value, which is something that distinguishes the media and creative industries from other sectors of the economy.
- 4.4.5 The shrinking space for independent media calls for urgent public and private support mechanisms to sustain journalism as a public good. More research is needed for efficient public support mechanisms guaranteeing arms' length criteria and innovative sustainable new business models for public interest journalism.
- 4.4.6 The EESC strongly supports the Commission's plan for a "European Media Freedom Act" to equip the European Commission with effective legal instruments to enforce media freedom and media pluralism in all EU Member States. The EESC calls on the Commission to examine how European competition law can be deployed and developed to stop further consolidation in the media market, in particular that driven by national governments, to avoid the creation of media monopolies in national media markets in the EU, in particular by governments or actors close to them.
- 4.4.7 The EESC draws attention to its opinion on the Commission's initiative for a common system of a digital services tax on revenues resulting from the provision of certain digital services<sup>17</sup> and points out that this tax (DST) is likely to offset distortions of competition between traditional and digital media (especially those based abroad).
- 4.4.8 The EESC underscores the importance of independent and impartial public service broadcasting in ensuring media diversity and draws attention to the agreement in Protocol No 29 to the TEU.
- 4.4.9 The EESC notes that the free market is unable to provide EU-wide media services in the field of broadcasting and therefore calls for the creation of an independent and impartial European public service broadcaster.
- 4.4.10 In all cases where the free market is unable to ensure media diversity, the EESC sees independent and impartial public service broadcasting as a model for guaranteeing this, including in online and print media.
- 4.4.11 The EESC stresses that barrier free access to media is a fundamental part of media freedom and it is concerned by increased forms of direct or indirect discrimination on the basis of disability in the media. The EESC calls for enacting legislation to remove restrictive practices that have the effect of impairing or nullifying an individual's participation in media freedom and diversity.

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<sup>17</sup> [OJ C 367, 10.10.2018, p. 73.](https://eur-lex.europa.eu/eli/oj/2018/367/01/01/EN)

#### 4.5 Recommendations for strengthening media literacy

4.5.1 The EESC welcomes the Commission's numerous proposals to strengthen citizens' media literacy<sup>18</sup>, with a particular focus on digital skills. This is of utmost importance in order to enhance citizens' resilience to disinformation.

4.5.2 The EESC supports the proposal to set up a "European Agency for Citizenship Education" to bolster the media skills of EU citizens through educational programmes. It calls on the Commission to examine the possibility of establishing such a central institution in a timely manner and to ensure that one of its remits is the provision of training in dealing with – especially digital – media.

Brussels, 22 September 2021

Christa Schweng

The president of the European Economic and Social Committee

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<sup>18</sup> [JOIN\(2020\) 8 final](#); [COM\(2020\) 624 final](#); [COM\(2020\) 784 final](#); [COM\(2020\) 790 final](#).