

EUROPEAN MEDIA FREEDOM ACT

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Independent media reflects the fundamental right freedom of expression. This right is a key pillar of democracy, as a source of reliable information to citizens, providing a plurality of views, which shapes public opinion and helps citizens make informed decisions. The rights and values of democracy and freedom of expression are among EUs founding values, according to article 2 of the TFEU and article 11 of the Charter of Fundamental Rights.

However, the Commission, through the Rule of Law Report¹ and the Media Pluralism Monitor, has assessed increasingly worrying trends across EU, which put at risk the independent media and its connected rights. Reporters Without Borders Press Freedom Index shown that European countries press of freedom has deteriorated, particularly in Hungary, Poland, Malta, Greece and Bulgaria.

In 2017 Malta, the journalist Daphne Caruana Galizia was killed, due to her reports on government corruption. More recently, Hungary and Poland have captured the attention of the EU due to their authoritarian conducts. In Poland, the current political party in power has tried to establish control over the public media organs to use it for propaganda, by having the decisive role in the National Media Council. The party is responsible for appointments and dismissals of the management and supervisory boards of the Polish Television, Radio and Press Agency without any justification or judicial appeal. This made polish TV the most unbalanced and politicized broadcasters in the EU, as news coverage is systematically biased, with reporting overwhelmingly favourable to the ruling party, blocking certain opposition parties, spreading disinformation and airing xenophobic and anti-Semitic views. Similarly, in Hungary, the Hungarian Media Council decided not to renew the license for the Klubrádió, the country's leading independent radio

¹ The July 2022 report notes that journalists continue to face threats and obstacles, including attacks, as verbal harassment, legal threats, physical assaults, attacks on property

station, which shows the control the ruling party has over the media council. The European Parliament has considered these two Member-States “electoral autocracies”²

With this perspectives, Věra Jourová emphasized that in the past years various forms of pressure on the media have taken place, reflecting on situations of journalists being spied on or media being used as a propaganda channel, reinforcing the need for action, by proposing common safeguards to protect media freedom and pluralism in the EU.³

Consequently, the European Commission adopted a European Media Freedom Act proposal in September 16th, 2022. This proposal builds on the Digital Services Act and the Code of Practice on Disinformation and is now under negotiation between the European Parliament and the European Council.⁴

The regulation presented aims to ensure that media can operate more easily across borders in the EU internal market, while protecting media pluralism and independence in the EU. It includes safeguards against political interference and focus on independence and stable funding of public media. In addition, the proposal includes a recommendation, which provides a toolbox of voluntary measures for companies to consider.

The measures proposed are: Protection of editorial independence, by requiring Member States to respect the effective editorial freedom of media service providers and improve the protection of journalistic sources, by publicly disclosing information and take measures with a view to guaranteeing the independence of

² Politico <https://www.politico.eu/article/viktor-orban-rule-of-law-european-parliament-brands-hungary-as-no-longer-a-democracy/>

³ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5504

⁴ https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5504

individual editorial decisions; strong safeguards against the use of spyware against journalists; in the case of public service, its funding has to be adequate and stable to ensure independence , so the governing board of public service media will have to be appointed in a transparent and non-discriminatory process and the public media will provide pluralism of information in an impartial manner; establishes new requirements for the allocation of state advertising to media; protection against unjustified removal of media content. Most innovative, the act proposes a new independent European Board for Media Services, comprised of national media authorities, to promote the effective and consistent application of the regulation, provide expertise and deliver opinions on national measures, promote cooperation, exchange of information and combat foreign interference and information manipulation.⁵ With this in mind, it can be said that there will a media that is approved and one there is not, depending on the safeguards met. However, that does not mean it is an anti-democratic control of freedom of expression, as many critics of the regulation seem to conclude.

Of course, this initiative is not welcomed by some Member-States, given their current media system, the exposition of their situation and the possibility of a consequent investigation. It is interesting to note that some of the objections to this act also come from the Balkans, particularly the ones wanting to accede to the EU, where the assessment of their respect for freedom of expression is essential. The regulation could have an impact in acceding countries where the deterioration of media freedom is a growing problem. In the Balkans, the leading media emits misinformation, undermining the EU in favour of Russia and China. For example,

⁵ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739202/EPRS_BRI\(2022\)739202_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739202/EPRS_BRI(2022)739202_EN.pdf)

Serbia appears to grant all five of its national TV licenses to pro-Russian and pro-government media outlets.⁶

This proposal can be a ground-breaking step for EU, since European society is confronted with the tolerance paradox, a concept explained by the philosopher Karl Popper. If society is tolerant without limit, its ability to be tolerant will eventually be destroyed by the intolerant that takes over. This means that to maintain a tolerant society, this one must be intolerant to intolerance and that can be achieved through a higher transparency control.

Therefore, this logic clearly applies to EU current situation, considering the challenges that it has been facing over the past few years. The rise of non-democratic regimes within EU and outside of it creates pressure and interferes with EU democracy and freedom, which is extremely dangerous, as history has taught. This act comes in reaction to this. It tries to disrupt with the authoritarian regimes technic of control public service media, allocate states resources for advertising, which result in a big influence on the media, and consequently on public opinion.

If EU wants to protect itself, it has to take measures that reinforce its values and prevent these movements to take over in the name of democracy and freedom, as they say, when they will take every step to destroy such values, which took years to conquer and are an essential component of the peace EU has been able to live in the past decades.

⁶ Euroactiv <https://www.euractiv.com/section/enlargement/opinion/european-media-freedom-act-needs-a-balkan-focus/>

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