

MEDIA FREEDOM REPORT 2022



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Bulgaria: Bulgarian Helsinki Committee (BHC)
Croatia: Centre for Peace Studies (CMS)
Czech Republic: The League of Human Rights (LIGA)
France: VoxPublic
Germany: Society for Civil Rights (GFF)
Hungary: Hungarian Civil Liberties Union (HCLU)
Italy: Italian Coalition for Civil Liberties and Rights (CILD)
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Slovenia: The Peace Institute
Spain: Rights International Spain (RIS)
Sweden: Civil Rights Defenders

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Executive summary

About the report

The Media Freedom Report is the first annual report on media freedom in the EU, produced by the Civil Liberties Union for Europe. This report complements Liberties' annual Rule of Law Report,¹ written with the participation of our member and partner organisations in 15 EU countries, namely Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Ireland, Italy, the Netherlands, Poland, Slovakia, Slovenia, Spain and Sweden.

The report analyses the main trends in media freedom in 2021 at national level across the EU and offers recommendations on how to address problems detected in the media system. In addition, this year's report provides the European Commission with reliable and independent information for the preparation of the European Media Freedom Act (MFA).

The report focuses on four topics: media freedom and pluralism, safety and protection of journalists, freedom of expression and access to information, and the enforcement of laws.

Overview of trends

According to the reports from our member organisations in 15 EU Member States, there has been a steady **decline in media freedom and pluralism** in the EU in 2021. Certain governments have been threatening media freedom as part of a broader strategy to dismantle the rule of law and democracy, to occupy the public and political discourses and to cover up widespread corruption. But problems exist also in many other countries, because governments do not make enough of an effort or downplay issues.

There are multiple threats to media freedom. One is the **political pressure** exerted on independent media and public service media by authoritarian governments. **Economic pressure**, caused by higher reliance on social media, lower state subsidies and abusive lawsuits among other things, and exacerbated by the **COVID-19 pandemic**, is also affecting the media, especially smaller outlets, making them more vulnerable, for example to being overtaken by bigger players. In many countries, media pluralism is under threat because **media authorities are not independent from political influence**, current rules do not require transparency when it comes to who funds or owns media outlets, and **media ownership is**

1 Civil Liberties Union for Europe, Liberties Rule of Law Report 2022, <https://www.liberties.eu/en/stories/liberties-rule-of-law-report-2022/43972>, February 15, 2022.

highly concentrated in the hands of an excessively small number of owners.

The situation for media freedom and the safety of journalists in the EU generally worsened in 2021. In several countries, **online attacks and physical violence** against journalists, including by the police, remained significant or even worsened. **Strategic lawsuits against public participation (SLAPPs)** targeting investigative journalists **are also on the rise**. SLAPPs deter media outlets from reporting on matters of public importance. Government-led smear and hate campaigns, illegal surveillance practices, and continuous **online harassment** are forcing some journalists to **self-censor**.

Some governments have imposed more **restrictions on freedom of expression and access to public information**. Laws **criminalising speech**, in particular defamation, libel and slander laws, are often disproportionately harsh and have a **chilling effect** on journalists, curtailing their ability to **expose corruption**. Internet companies are doing too little to enforce laws that prohibit **hate speech**. Inadequate **online content regulations also disproportionately limit free speech**.

Summary of key recommendations

Media freedom and pluralism

- To **improve transparency of media ownership**, the MFA should provide a **publicly available database on beneficial**

ownership detailing the whole chain of media companies, both at national and European levels.

- The MFA should ensure **fair and transparent allocation of state subsidies and public funds** to media outlets with special regard to public service media. State aid and subsidies should be systematically subject to review. They should also be defined broadly to include all costs and benefits that affect competing media companies, including state advertising and tax exemptions.
- The MFA should require that the mechanism for **the appointment of members of National Media Regulation Authorities (NMRA) be democratic and transparent**. It should also set out the basic principles of selection criteria, including proven expertise in matters of media regulation and independence from political influence.

Safety and protection of journalists and media workers

- The MFA should require Member States to put in place **safeguards to ensure a safe environment for journalists and media workers**. The Commission should encourage Member States to implement its recommendation on the protection, safety and empowerment of journalists from 16 September 2021.
- The MFA should support editorial independence from public or private

interference. The Commission should urge Member States to implement existing mechanisms to **protect journalists and their sources** in judicial and administrative procedures, by providing privileged exemption to journalists from home searches, secret surveillance, and police investigations. The Commission should also use all its available powers to ensure national authorities properly implement the **Whistleblower Protection Directive**.

- The Commission should come forward with a **proposal for an EU Anti-SLAPP Directive** based on a sound and comprehensive understanding of SLAPPs, as suggested by Liberties² and the Coalition Against SLAPPs in Europe (CASE).³ The measures should include accelerated proceedings that can filter out SLAPPs as quickly as possible, sanctions to punish SLAPP litigants, and financial support and compensation to support SLAPP victims to fight off SLAPPs.

Freedom of expression and access to information

- The European Data Protection Supervisor and the Board should clarify how national authorities should **interpret the General Data Protection Regulation (GDPR)** in

situations where journalists are exercising their **right** to report on matters of public interest. The Commission could support this through the text of the MFA, and by publishing guidelines.

- The EU should address the business model that incentivises the spread of disinformation by allowing it to be **monetised**. At the same time, the Commission should also clean the information ecosystem by limiting the **harmful effects of targeted advertising**. This can be achieved through the Digital Services Act package.
- The Commission should pressure Member States to take steps to bring laws criminalising speech, such as **defamation**, libel, and slander, in line with international human rights standards.

Enforcement mechanism

- The EU should establish an overarching European body, the **Board of Media Freedom**, consisting of independent experts, who could participate in the monitoring process of the Member State-level work.
- **Annual monitoring** of the status of media freedom and pluralism in Member

2 Ravo, L., SLAPPs In Europe: How The EU Can Protect Watchdogs From Abusive Lawsuits <https://www.liberties.eu/en/stories/slapp-case-submission/43948> January 13, 2022.

3 Coalition Against SLAPPs in Europe (CASE), [SLAPPs In Europe: How The EU Can Protect Watchdogs From Abusive Lawsuits](#), January 2022.

States should be part of the **Commission's annual Rule of Law Report**, along with refined benchmarks defined by the MFA and elaborated on by the Board of Media Freedom.

- The **benchmarks** on media freedom in the Commission's Rule of Law Report **should be clearer and more specific**. More attention should be given in particular to the capture of and state control over public service media, state advertising and the protection of journalists.

Background

The EU is committed to the values of the rule of law, democracy, and fundamental rights as enshrined in the Charter of Fundamental Rights. A properly functioning democracy relies on balanced and well-informed public debate, which is in turn made possible through free and plural media. Since 2020, the Commission has been introducing proposals for shaping the EU's digital future. The ambitious Digital Services Act package is closely inter-linked with media legislation, while the European Democracy Action Plan serves as a base for the MFA. The new Media Freedom Act should build on the existing laws and means in the field, among others the Audiovisual Media Services Directive,⁴ the Whistleblower Protection Directive,⁵ the Recommendation on the protection, safety and empowerment of journalists⁶ and the Communication of the Commission on the application of state aid rules to public service broadcasting.⁷ The MFA should also be linked to the upcoming anti-SLAPP work.

A healthy **pluralistic media landscape** guarantees citizens access to reliable information about public matters. **Public service media** must be free from political and corporate influence. Public service media outlets fulfil their mission by giving citizens access to accurate information and promoting social cohesion and cultural diversity. Diverse and competing media companies, without ownership concentration on the market, can provide platforms for debate for people from all groups of society. This allows citizens to form opinions and make informed decisions, including when they go to the ballot box. Therefore, **free and pluralistic media is a prerequisite for free and fair elections** at national and EU levels.

Free and pluralistic media is based on access to information and freedom of expression. Freedom of expression is a precondition for reporting on public interest events or on public wrongdoing, which helps hold politicians and

4 Directive (EU) 2018/1808 of the European Parliament and of the Council amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018L1808&from=EN>, November 14, 2018.

5 Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32019L1937>, October 23, 2019.

6 Recommendation on the protection, safety and empowerment of journalists, <https://digital-strategy.ec.europa.eu/en/library/recommendation-protection-safety-and-empowerment-journalists>, September 16, 2021.

7 009/C 257/01, [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52009XC1027\(01\)&from=DE](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52009XC1027(01)&from=DE), October 27, 2009.

other powerful people to account for their actions.

Media regulatory authorities play an important role in securing a healthy environment for media freedom. They are responsible, for example, for granting broadcasting licences, enforcing ownership transparency, enforcing rules on public service media, elaborating co-regulatory codes of practices and fostering discussions with self-regulatory bodies of journalists. Therefore, it is essential that the members of these authorities are **independent of governments, political parties, and the industry, and work effectively and transparently**.

Media freedom and **independent journalism** also protect the values of the Union. A diverse media landscape and watchdogs, like investigative journalists and civil society organisations (CSOs), are indispensable for providing **checks on political power**. They **help keep an eye on the actions of the executive, legislative and judiciary** branches of government, and in doing so **strengthen the accountability** of elected representatives and decision-makers at all levels. Without an independent and well-financed media system and journalists who can carry out their work freely, **bad governance** remains hidden and citizens cannot make informed decisions about public matters.

However, media freedom and pluralism face multiple threats. **Authoritarian governments use various strategies and tactics to take control of the media**, including state-financed advertising strategies, appointing loyalists to

the boards of media regulatory authorities, placing public service media outlets under political control or getting wealthy cronies to buy private media companies. Some are also passing laws restricting CSOs' or journalists' ability to function and to receive the financial resources necessary to carry out their work. The COVID-19 pandemic has often been misused to legitimise interference with media freedom, including access to public interest information.

Journalists are not safe, even in countries with traditionally strong democratic records. Journalists and CSOs face **verbal and physical attacks, legal harassment and smear campaigns**. This is especially true for those who promote equality for marginalised groups, such as ethnic minorities and LGBTQI+ persons, and for those who work on politically sensitive issues. The rapid spread of **disinformation** contributes to **eroding public trust** in the media.

Corrupt politicians and powerful businesspeople use **strategic lawsuits against public participation (SLAPPs)** to intimidate journalists and pressure them into silence. **SLAPPs weaken democracy** and the rule of law by impeding the exercise of basic rights such as free speech. And the threat they pose affects society as a whole, as **journalists may refrain from investigating and exposing wrongdoings** and may hold themselves back from speaking out on matters of public interest to avoid being targeted. As a result, SLAPPs have a chilling effect on democratic debate.

Quality journalism and the diversity of the media sector is also threatened by **economic**

pressure. In particular, smaller media outlets and other less commercial forms of journalism suffer from financial difficulties and face bankruptcy or the risk of being overtaken by bigger players. Flexible digital payment solutions should be explored to encourage content distributions and provide income to media outlets. Where states provide subsidies and state advertising is allowed, close scrutiny is needed to ensure fair, transparent and non-discriminatory execution.

Member States must ensure that all citizens can enjoy a free and diverse media landscape.

Diminishing or restricting media freedom and pluralism is an early warning sign of backsliding on the rule of law.

Current trends and key issues in the EU

A steady decline in media freedom and pluralism

3.1.1 Pluralism and concentration

A pluralistic media landscape, both external and internal, is crucial for ensuring that the public can form their own opinions and make informed decisions. A plurality of media owners is therefore an essential element for ensuring that diverse political and ideological views are covered. However, a high concentration of media ownership remains a major concern in Croatia, Hungary, Italy, Poland, Slovenia and the Netherlands.

In Croatia, Slovenia and Italy, the lack of transparency and publicity of ownership structures is cause for concern. In Italy, the public broadcaster RAI and private media firm Mediaset dominate the market.⁸

In Hungary, media concentration is a long-standing issue. After 2015, the government significantly transformed the media environment. State- and oligarch-owned banks provide huge loans to government-friendly entrepreneurs, who create propaganda machines for the Fidesz party. Government loyalists have

taken over several influential press outlets that used to be critical of the government. They also bought and merged the entire provincial newspaper market. The Central European Press and Media Foundation (KESMA) has merged more than four hundred commercial media outlets.⁹

In the Netherlands, the media landscape is characterised by high levels of foreign ownership. In June 2021, the RTL Group announced its intention to take over the Talpa Network. If this is approved, it would severely affect the plurality of the Dutch audio-visual media sector, as only two major commercial broadcasters would dominate the field.

Media market concentration in Slovenia is high. Although the Mass Media Act provides numerous mechanisms to prevent high ownership concentration, the implementation of the rules safeguarding pluralistic media has been deficient. The state-owned company Telekom Slovenije was partly acquired by a Hungarian owner close to the Fidesz party, which is an ally of the Slovenian ruling party. Since then, the editorial policy has changed.

8 Freedom House, Italy, <https://freedomhouse.org/country/italy/freedom-world/2021>, 2021.

9 CEU Democracy Institute, Report: [Establishment of KESMA Exacerbates the Overall Risk to Media Pluralism in Hungary](#), August 8, 2019.

Government influence or pressure on public service media

Public service media outlets are supposed to work as pillars of trust and promote social cohesion. Their mission is to provide impartial and reliable information for a vast audience, including children. However, in several countries, governments are putting the public service media under serious pressure.

In Hungary, the public service media is under complete government control. The budget allocated to the public service media has been increasing significantly year on year in a non-transparent way. Moreover, task-related financing is missing. The organisational structure is opaque, responsibilities are unclear and monitoring is non-existent. The CEO is appointed by the Media Council, which is under government control, and the editors are government-friendly as well. A lawsuit illustrates well the issue of the state media's vision of its own role: In 2018, a pro-government youth organisation spread misinformation about the Hungarian Association for Migrants (Menedék). The state media disseminated the news,¹⁰ an action considered unlawful by the Supreme Court of Hungary. According to the

judges, the public service media should have checked the veracity of the sources before sharing the statements. The state media challenged the judgement in a constitutional complaint and argued that it was not its duty to provide objective information. The case is pending.¹¹

Similar political interference in and control over public service media have been reported in Croatia. The public service broadcaster, Croatian Radio Television (CRT), is said to be controlled by the government. This is well demonstrated by the dismissal from the CRT in March 2021 of the president of the Croatian Journalists' Association (CJA), Hrvoje Zvoka, who openly criticised the management and questioned the independence of the public broadcasting service. A few months later, the CRT director was arrested on suspicion of corruption and Robert Šveb was appointed as his replacement. Opposition MPs protested the appointment, arguing that Šveb was the personal choice of the Minister of Culture and Media.¹² The CJA and the Trade Union of Croatian Journalists called for a new Croatian Television Act that would ensure the independence of Croatian public service media.¹³

10 Medvegy, G., [Hungarian state media condemned for lying about Civil Society Organisation](#), September 25, 2019.

11 Hungarian Constitutional Court, IV/3900/2021 A Kúria Pfv.IV.20.791/2020/6. számú ítélete elleni alkotmányjogi panasz (sajtószerv felelőssége), <http://public.mkab.hu/dev/dontesek.nsf/0/2D95146D4B448A-44C1258787004A6361?OpenDocument>, February 08, 2022. Disclaimer: The Hungarian Civil Liberties Union (HCLU) provides legal representation to the Menedék Association in this case.

12 HINA, [Opposition Obstructs Discussion on Appointment of New HRT Director-General](#), October 15, 2021.

13 Hrvatsko novinarsko društvo, [Hrvatska Radiotelevizija Mora Postati Servis Građana, A Ne Politike](#), October 15, 2021.

In the Czech Republic, the national public service media broadcaster Česká Televize has been under increased pressure.¹⁴ In the 2020 election of the members of the Broadcaster's Governing Council, the proposed candidates all had links to the ruling party. The opposition blocked the vote and the controversial board member, Hana Lipovská, was removed from her position. Opposition parties won the parliamentary elections in October 2021, but as of March 2022 the Council's vacancies are still to be filled.

In Slovenia, the pressure and harassment exerted by the government on public service media has worsened. The government stopped funding the national press agency (STA) for almost the entire year, and the STA's director was forced to resign. Bankruptcy was avoided only thanks to a crowdfunding campaign organised by the Slovenian Association of Journalists, but at a high cost: "A number of excellent staff have left us, the agony has compromised the quality of the agency's service to the public, halted a number of development projects and, last but not least, has left us psychologically exhausted", said STA staff in a statement.¹⁵ The government has also put the public service broadcaster RTV Slovenija under financial pressure by refusing to raise the licence fee that most households are obliged to pay, which is the main source of income for RTV Slovenija. Simultaneously, the key personnel in the governing bodies and

management of the public service broadcaster were replaced by people that align with the interests and preferences of the government and coalition parties.

In Italy, the seven board members of the public broadcaster RAI are elected by law as follows: two by the Chamber of Deputies and two by the Senate from among candidates in a public selection procedure, two by the Council of Ministers based on a proposal from the Minister for the Economy, and one by the RAI employees' assembly. Their removal requires a resolution of the assembly but it is subject to approval by the RAI supervisory commission. Since the Ministry of Finance owns almost 100% of RAI's shares, in practice such decisions substantially reflect its position.

Political and economic pressure

Political and economic pressure continues to be one of the main threats to media freedom and pluralism in countries including Bulgaria, Germany, Hungary, Poland, Slovenia and Spain.

In many EU Member States, even stable ones like Germany, the pandemic has created a great economic challenge for small and local media publishers. Reporters Without Borders is warning that in Germany, "media pluralism is undergoing a slow but steady erosion".¹⁶

14 Mejzrová, A., *Veřejnoprávní média v Česku jsou v ohrožení, zní z Evropské vysílací unie*, April 9, 2021.

15 sta Agency, *STA signs deal on public service with UKOM valid until end of the year*, November 8, 2021.

16 Reporters Without Borders, Germany, <https://rsf.org/en/germany>, 2021.

The Polish government continues its discriminatory practices in granting broadcasting licenses. The US news channel TVN24 finally received an extension to its broadcasting licence after almost two years. This delay is unprecedented. The reasons were clearly political as TVN24's content is often critical of the Polish government. A new law, known as Lex TVN, risked banning non-European companies from owning, even indirectly, Polish broadcast media, although it was eventually vetoed by the President.

In Spain, a report by the Madrid Press Association revealed that 65% of journalists surveyed in the study deplored a lack of press freedom caused by economic and political pressure.¹⁷

Media funding

The financial independence of the media is a prerequisite for professional, high-quality, impartial journalism. However, non-transparent public funding of the media and undue control over it through subsidies is a particular concern in Bulgaria, Hungary, Poland and Slovenia, where governments only support media outlets that are in line with their ideologies. In Bulgaria, Hungary and Slovenia, this has even led to the use of public funds to support

media which disregard ethical and professional standards and disseminate propaganda, including hate speech in the case of Slovenia.

In Poland, a report by the research centre Kantar Media found that state companies altogether spent more than 5 billion PLN (approximately 111 million EUR) on advertisements.¹⁸ Furthermore, in 2021 the government announced a legislative proposal that would introduce a levy on the advertising revenue of media outlets. Part of the generated revenue would be used to set up a fund that would finance media projects of actors close to the government. If passed, the tax would specifically hurt independent media outlets and private outlets. However, the government dropped the proposal after protests from the media and civil society organisations.

In Slovenia, the Ministry of Culture rejected subsidies for numerous professional media outlets, investigative outlets and radio stations with the status of public interest media.¹⁹ Instead, those subsidies went to finance pro-government media projects, including those spreading hate speech and smear campaigns. In addition, media outlets affiliated to the ruling party are receiving public funds via the state's advertising contracts.²⁰

17 Asociación de la Prensa de Madrid, [Informe Anual de la Profesión Periodística](#), 2020.

18 Kowalski, T., [Report. Advertising Expenditures of state-owned companies. Poland 2015-2020](#), February 2021.

19 Mekina, I. and Insajder, [Državni denar za provladne medije: Na ministrstvu za kulturo zavračajo očitke, razdelitev denarja pa dokazuje zlorabe](#), June 03, 2021.

20 Hrvatin, S. and Petković, B., [You Call this a Media Market? The Role of the State in the Media Sector in Slovenia](#), 2008.

Media authorities and bodies

Media authorities are supposed to supervise and enforce rules on media freedom and pluralism at the Member State level. However, in several countries, the appointment of authority members is oftentimes not transparent and the authorities are neither independent nor effective.

In Bulgaria, for example, the government can interfere in the appointment of members of the Council of Electronic Media (CEM). Three out of five members are appointed by the Parliament and two by the President. As a result, members of the CEM are usually chosen for their loyalty to the majority in the Parliament or to the President, rather than for their expertise and experience.

In the Czech Republic, there is an absence of independent and effective media councils. Currently, members of the Public Service Media Council are elected by the Chamber of Deputies, and Parliament can dismiss the media council as a whole.²¹

In Hungary, since 2010, the Media Council has been composed exclusively of members nominated and elected by the governing majority. This means it cannot be considered independent. On 15 October 2021, the president of the media authority, whose mandate was due to expire after the next parliamentary elections,

announced her resignation, allowing the current government time before the election to nominate, and Parliament to elect, András Koltay, a Fidesz loyalist, as the new president. Koltay will now lead the authority for the next nine years, regardless of the outcome of the parliamentary elections in April 2022.²²

In the Netherlands, the Dutch Foundation for Public Broadcasting, which is not supposed to concern itself with media content, plays a significant role in the selection of television programmes. It also lacks transparency when it comes to the way decisions are made and money is spent, for example regarding which programmes will be aired and what productions are financed. The lack of clarity in the appointment of the board of the Dutch Media Authority also raises concerns.

In Poland, the members of the National Broadcasting Council are composed of people with ties to the ruling party, which means it does not meet the criteria for being an independent body. The Council has been very passive and has not taken any measures, except of occasional reactions to complaints, to counter biased and discriminatory media content published by public service media, especially during election campaigns. The Council's bias was visible in the TVN24 case: the Council waited almost two years to extend the licence of the US-owned television channel, and finally did so in September 2021.

21 Rekonstrukce Státu, [Malý krok pro diváka, ale velký krok pro nezávislost médií. V Senátu se začala projednávat novelizace mediální legislativy](#), December 01, 2021.

22 Hungarian Helsinki Committee, [Cemented in their seats](#), January 17, 2022

In Slovenia, the main media regulatory authority, the Agency for Communication Networks and Services (AKOS), lacks resources and capacity in the unit for electronic media, which explains its general passivity in this area. The appointment of the director and governing body is under government control.

Public trust in media

Public trust in traditional media appears to be declining in Bulgaria, Croatia, Hungary, Italy, the Netherlands, Poland, Slovakia and Slovenia. This is partly linked to anti-press sentiment triggered by reporting on the pandemic but also by the spread of disinformation and government smear campaigns.

In Bulgaria, low media literacy (the lowest in the EU according to the Open Society Institute's 2021 Media Literacy Index²³) and greater reliance on social media, exacerbated by the far-reaching spread of inaccurate information around COVID-19, have contributed to lowering the trust in traditional media sources and are making citizens more vulnerable to disinformation and propaganda.

In Croatia, overall trust in the media is high, according to a recent study conducted by the Reuters Institute.²⁴ However, research by the

Croatian fact-checking website Faktograf.hr indicates that public trust in traditional media is declining, as part of a wider distrust in democratic institutions.²⁵

In Hungary, the trust in the media highly depends on the audience's political views. According to the above-mentioned study by the Reuters Institute, Hungary has one of the lowest news-trust scores worldwide.²⁶ The same study found that only 30% of respondents in Slovakia trust the news overall, 42% trust the news they use, 29% trust the news they search for and only 16% trust news on social media.

In Slovenia, the Prime Minister's smear attacks have had a detrimental impact on public trust in the media and have polarised the public debate. In Italy, the diminishing trust is a result of the challenges facing the viability of public service broadcasts, which lower editorial standards in news reporting. In Sweden, rights groups are calling for better enforcement of public service broadcasters' adherence to democratic values.

23 Open Society Institut Sofia, Индекс на медийната грамотност 2021, <https://osis.bg/?p=3749>, March 14, 2021.

24 Newman, N. et al., *Reuters Institute Digital News Report 2021*, 2021.

25 Despot, S., *Nepovjerenje u tradicionalne medije dio je šireg nepovjerenja u institucije*, November 27, 2021.

26 Reuters Digital News Report 2021, *ibid*.

Journalists and media workers are not safe

Violence against journalists

In most of the countries covered in this report, journalists are facing an increasingly unsafe environment. Rights groups in Belgium, Bulgaria, Croatia, France, Germany, Italy, the Netherlands, Poland, Slovenia, Spain and Sweden report worrying episodes of harassment and attacks against journalists, including in connection with demonstrations against COVID-19 measures.²⁷

The 2021 annual report of the Platform to Promote the Protection of Journalism and Safety of Journalists points to Italy as one of the countries with the “highest number of attacks on the physical integrity of journalists” and France and Poland as having a “high number of cases of intimidation and harassment of journalists”.²⁸ The Italian non-governmental observatory Oxygen for Information found that in 2021, 301 journalists, bloggers and video reporters received threats, many of which occurred during COVID-19 related protests.²⁹

In the Netherlands, journalists have reported an increase in threats and attacks, and an increasingly violent narrative against the media. In July 2021, the nation was shocked when the prominent crime reporter Peter R. de Vries was fatally shot in broad daylight in central Amsterdam.³⁰ Besides his job as a journalist, de Vries was also a trusted advisor to a key witness in the trial against one of the Netherlands’ top drug lords. The public broadcaster NOS removed the logo from its vans to protect its staff. According to the Dutch Association of Journalists (NVJ), 82% of Dutch journalists experienced aggression or intimidation in 2020, compared to 62% in 2017.³¹

In Germany, physical attacks against journalists have increased in recent years. According to the European Centre for Press & Media Freedom (ECPMF), there were 69 reported attacks on journalists in 2020, compared to 14 the year before.³² The majority of attacks happen in the context of COVID-19 demonstrations.

In Poland, the government has not taken any measures to combat physical and verbal violence against journalists, despite the media reporting a growing number of such cases. In one incident, three photojournalists were

27 Civil Liberties Union for Europe, [Liberties Rule of Law Report 2022](#), February 15, 2022

28 Council of Europe, [Wanted! Real Action for Media Freedom in Europe](#), April 28, 2021.

29 Attolini, G., [Giornalisti. 301 Minacciati In Italia Nel 2021. Il 24% Donne. Nuovo Record In Lazio](#), December 28, 2021.

30 BBC: [Peter R de Vries: Dutch crime reporter dies after shooting](#), July 15, 2021.

31 European Federation of Journalists, [Netherlands: International media freedom mission on the safety of Dutch journalists](#), January 07, 2022.

32 European Centre for Press & Media Freedom: [Feinbild Journalist: Alliiert im Pressehass](#), March 23, 2021.

brutally apprehended by the police and soldiers at the Polish-Belarusian border while covering the plight of refugees trapped in limbo.³³

The Slovenian Association of Journalists established an online platform³⁴ on which journalists can report attacks. Some of the most concerning incidents reported include violence perpetrated by protesters during COVID-19 demonstrations, verbal attacks, death threats and the use of tear gas by the police.

Attacks on social media, including cyber attacks

Attacks on social media against journalists, and particularly women journalists, are also on the rise in Croatia, Germany, Italy, Slovenia, Spain and Sweden, often perpetrated by right-wing groups and organised networks.

Journalists and rights and social activists in Sweden have suffered from repeated attacks as a report by the NGO Civil Rights Defenders (CRD) from May 2019 shows.³⁵ Hate crimes and cyberbullying are not a priority for the police and are rarely prosecuted. Compensation for the victims tends to be very low. As a result, civil society actors have stepped in. In

the last few years, several employees of a small organisation gathered online evidence in the form of screenshots and likes, as well as information about the identities of the suspected perpetrators. They filed more than 1,200 police reports for incitement against ethnic groups on social media, which led to more than 200 convictions. However, the punishment for perpetrators is not proportional. According to CRD, a person who has spread hundreds of inflammatory messages via various channels will currently receive punishment similar to that received by someone who has only written one or two provocative comments.³⁶

Cyberattacks against the media have also been reported in Croatia and Spain. In Spain, a number of digital media outlets have suffered several Denial-of-Service attacks (DDoS) that caused intermittent downtime on their web pages. The affected media outlets described the events as “an attack of an ideological nature” with the intention of silencing them.³⁷

Police violence

Rights groups have reported incidents of police violence against journalists in Belgium, Bulgaria, Italy, Poland, Slovenia and Spain.³⁸

33 Committee to Protect Journalists, [Polish authorities detain, harass journalists covering refugee crossings from Belarus](#), November 23, 2021.

34 Društvo Novinarjev Slovenije, [Prijavi napad](https://novinar.com/prijavi-napad/), <https://novinar.com/prijavi-napad/>, 2019.

35 Civil Rights Defender, [Rapport: När samhället tystnar](#), May 13, 2019.

36 Civil Liberties Union for Europe, [Liberties Rule of Law Report 2022](#), February 15, 2022.

37 La Marea, [Las webs de La Marea y El Salto sufren un ataque informático](#), November 22, 2021.

38 Liberties Rule of Law Report 2022, *ibid*.

In Belgium, there are concerns about police intimidation, destruction of journalistic material, arbitrary arrests and prosecutions of journalists and citizens filming police interventions.³⁹ In one case, a reporter was pushed around, arrested and threatened by police officers during a Black Lives Matter demonstration, despite presenting his press card.⁴⁰ In particular, the right to film police action is a recurring source of conflict. The Supervisory Body for Police Information recently issued an opinion that questions the right to film police action.⁴¹ The “Don’t shoot” trial highlights the tension between police and the media. The trial originated from a complaint filed by the police against a photo exhibition showing police interventions in the public space. Police officers complained because they were identifiable in some of the photos. The Brussels’ court of first instance recognised the journalistic and educational value of the exhibition and upheld the right to show the unblurred photos of the police officers.⁴² The police decided to appeal, continuing to put pressure on the exhibition’s organisers and all journalists covering police interventions.

Similarly, in Spain, the so-called “Gag Law” from March 2015 bans the unauthorised use of images or personal and professional data of police officers that could put the safety of the agent or their family at risk, with penalties up to 30,000 EUR. Between 2015 and 2020, more than 200 people were charged with disseminating images of police action.⁴³ In 2021, Guillermo Martinez, a journalist, reported having been attacked by a police officer who asked him for his press accreditation. Despite a medical report and video cameras confirming his version of events, a judge acquitted the police officer and initiated a criminal proceeding for perjury against the journalist.⁴⁴

Smear campaigns

In Croatia and Slovenia, governments themselves have led smear and hate campaigns against independent and public service media. In Croatia, the Prime Minister Andrej Plenkovic has repeatedly attacked media outlets that are critical of the government. In May 2021, after local elections, he accused them

39 Association des journalistes professionnels, [L’AJP et la RTBF dénoncent l’arrestation abusive de journalistes](#), June 20, 2018.

40 Montay, P., [Intimidations de journalistes par la police lors de la manifestation anti-racisme : l’AJP ouvre un dossier de plainte](#), June 08, 2020.

41 Organe De Contrôle De L’information Policière, [Notre référence DD200025](#), November 22, 2021.

42 Ligue de Droits Humains, [Procès « DON’T SHOOT » : La justice confirme le droit de diffuser des images non floutées de la police](#), November 09, 2019.

43 Albin, D., [Más de 200 personas denunciadas desde 2015 por difundir imágenes de actuaciones policiales al calor de la ‘ley mordaza’](#), December 01, 2021.

44 Público, [Cuatro periodistas, investigados por falso testimonio tras denunciar una agresión policial a uno de ellos](#), November 23, 2021.

of “being paid to vilify a political camp” and of deliberately and repeatedly misnaming his party’s candidate. He was joined by Croatia’s President, Zoran Milanovic, who insulted the Croatian public broadcaster HRT, accusing its employees of being “tricksters”, “mercenaries” and “an embarrassment to the nation”.⁴⁵ The General Secretary of the European Federation of Journalists (EFJ), Ricardo Gutierrez, said: “It is totally unacceptable that journalists are being attacked by both the Prime Minister and, just recently, the President of Croatia. Blaming journalists in this way is an attempt to undermine their credibility in order to limit their role as a counterweight.”⁴⁶

In Slovenia, the ruling party and Prime Minister Janez Janša have made sustained attempts to discredit and target critical journalists and media outlets, including the public service media Slovenian Press Agency (STA) and Radiotelevizija Slovenija (RTV). Janša has called the STA a “national disgrace” and accused RTV of spreading “lies” and misleading the public.⁴⁷

Surveillance

Rights groups have also reported covert surveillance of journalists in Hungary and Spain. In Hungary, the government has used Pegasus spyware from the Israeli company NSO against several independent journalists. Once the information became public, the government justified its actions by arguing that they were part of the fight against terrorism and organised crime. Under Hungarian law, journalists are not protected from secret surveillance by rules that would guarantee the protection of their sources. The prosecutor’s office and the National Data Protection and Freedom of Information authority have both started investigations and found no evidence of unlawful or disproportionate authorisation of secret surveillance. In response to this the Hungarian Civil Liberties Union is taking legal action on behalf of several clients before the Hungarian authorities, the European Commission, the European Court of Human Rights and in Israel. In Spain, too, several Spanish journalists have been victims of the Pegasus spyware.

Abusive litigation (SLAPPs)

There is increasing concern about the frequency and impact of strategic lawsuits against public participation (SLAPPs) on journalists

45 European Federation of Journalists, [Croatian President verbally attacked HRT journalists](#), May 05, 2021.

46 European Federation of Journalists, [Croatia: Prime Minister Plenkovic attacked media after local elections](#), June 01, 2021.

47 Bayer L., Slovenia’s war on the media, <https://www.politico.eu/article/slovenia-war-on-media-janez-jansa/> February 16, 2021

and media,⁴⁸ as reported in Bulgaria, Croatia, France, Italy, Hungary, the Netherlands, Poland and Slovenia.⁴⁹ SLAPPs often target journalists that are critical of the government or political and public figures, but also those who investigate the activities of big corporations.

In Bulgaria, the impartiality of judges in SLAPP cases is sometimes questionable. In a recent case, the Sofia City Court (SCC) found the investigative journalists Boris Mitov and Stoyana Georgieva guilty of “defamatory allegations” in four articles reporting on the wealth of the court’s then president, Svetlin Mihailov, who was at the time running for another term.⁵⁰ In another case, a defamation suit was brought forward by the Bulgarian company Eurohold against the investigative news site Bivol, which had exposed some of the company’s controversial fundraising methods.⁵¹ Eurohold is seeking damages of almost half a million euros.

The Croatian Journalists’ Association published a report that found 924 cases of abusive lawsuits against journalists investigating powerful business people and politicians.⁵² The news site Index.hr is facing 56 defamation lawsuits, which threaten its existence.⁵³

In France, Reporters Without Borders (RSF) released a documentary about the businessman Vincent Bolloré’s frequent use of SLAPPs to silence journalists that investigate his businesses.⁵⁴ In another case, the businessman Jean Chéritel launched a defamation suit against journalist Inès Léraud. He then dropped the suit a few days before the trial, a common strategy of judicial harassment, which is effective as the long legal proceedings cost journalists time and money and cause them a great deal of anxiety.⁵⁵

In Hungary, the EU General Data Protection Regulation (GDPR) is often misused to force content removal: editorial offices face lawsuits on charges of alleged data protection violations

48 Shutting out Criticism: [How SLAPPs Threaten European Democracy](#), a Report by CASE, March 2022.

49 See the 570 cases collected by the CASE coalition here: <https://www.the-case.eu/slapps-in-europe>

50 Radio Free Europe Radio Liberty, [In Shock Verdict, Bulgarian Journalists Convicted of Defamation, Fined](#) January 07, 2022.

51 Marchenko N., [Eurohold Bulgaria Sues Bivol for the Record Sum of €0.5 Mln.](#), December 09, 2021.

52 Reuters Digital News Report 2021, *ibid.*

53 Sindikat novinara Hrvatske, [International journalist organisations worried about the wave of lawsuits against Index.hr](#), September 23, 2021.

54 Reporters Without Borders, [“Le Système B”: le documentaire choc de RSF sur le système Bolloré](#)”, October 15, 2021.

55 International Press Institute, [France: Attacks on journalists reporting on agro-business in Brittany](#), April 22, 2021.

for reporting on powerful Hungarian people and on the misuse of state subsidies.⁵⁶

In Slovenia, three investigative journalists from the investigative news portal Necenzurirano.si are facing 13 defamation suits brought against them by Rok Snežič, a controversial tax adviser to Prime Minister Janez Janša.⁵⁷

Confidentiality and protection of journalistic sources

Lawsuits are also being brought against journalists to force disclosure of sources.⁵⁸

Italian law does not sufficiently protect journalistic sources: in 2021, the national public broadcasting company RAI was asked to release documents breaching their sources' protection following access to information requests.⁵⁹ As part of this process Sicilian prosecutors wiretapped the phones of several journalists, recording dozens of conversations, breaching source anonymity.⁶⁰

In Poland, Katarzyna Włodkowska, a journalist from Gazeta Wyborcza, who is investigating the murder in 2019 of Gdańsk Mayor Paweł Adamowicz and claims that it may have been planned, was asked by the Prosecutor's Office to reveal her sources. When she refused, invoking journalistic privilege, the Court of Appeal in Gdańsk revoked her obligation to protect journalistic confidentiality and the Prosecutor's Office fined her.

In Spain, a judge ordered the digital newspaper Eldiario.es to reveal the sources of information regarding a dispute between the Spanish state and the family of the dictator Francisco Franco. The newspaper refused to disclose any information about the source, a decision supported by the main Spanish press associations and the International Federation of Journalists.⁶¹

Attacks and harassment leading to self-censorship

As a result of this unsafe environment, there is an increasing tendency for journalists to

56 Hungarian Civil Liberties Union, [GDPR Weaponized: Summary of Cases and Strategies where Data Protection is used to Undermine Freedom of Press in Hungary](#), November 23, 2020.

57 Bitenc, A. P., [Slovenia, SLAPPs and Silencing of the Media](#), November 26, 2020.

58 See for example case C-302/20 *Autorité des marchés financiers* 2020 <https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-03/cp220045en.pdf>

59 International Press Institute, [Italy: Access to Information Law should not be used to override journalistic source protection](#), July 01, 2021.

60 The Guardian, [Sicilian prosecutors wiretapped journalists covering refugee crisis](#), April 02, 2021.

61 Escolar, I. [Proteger nuestras fuentes es un derecho constitucional](#), October 13, 2021.

self-censor. Rights groups have reported this phenomenon in Bulgaria, Germany, Hungary, Italy, Slovenia and Sweden.⁶²

A study⁶³ by Bielefeld University found that a majority of attacks or harassment against journalists in Germany occur online. According to the study, journalists, especially those covering sensitive issues such as immigration and asylum, have started to self-censor.

The problem of online attacks and harassment has not been addressed in Slovenia despite a report published by the Slovenian Association of Journalists in 2021 showing that many journalists exposed to online attacks and harassment react by closing their social media accounts and retreating from online communication. Women journalists are harassed more often than men, with the term “presstitute” being commonly used to insult female journalists.⁶⁴

In Sweden, people are silenced on social media by being exposed to threats and systematic, campaign-driven and propaganda-like claims that constitute defamation.

In Hungary, the Pegasus scandal and the trans- and homophobic propaganda law may lead to a further increase of self-censorship. Public officials rarely dare to speak to the independent press.

Curtailling freedom of expression and information

CSOs across the EU have reported increasing restrictions on freedom of expression and information over the past year.⁶⁵

Disproportionately criminalising speech

In several EU Member States, laws continue to disproportionately limit free speech. In Italy, the Italian National Statistics Institute reports that in 2017 alone a total of 9,479 proceedings for defamation were initiated against journalists. However, Parliament has so far failed to reform the country’s defamation laws.⁶⁶ In Ireland, too, defamation laws have had a chilling effect on journalists and their ability to expose corruption, as highlighted by EU Commissioner Didier Reynders in March 2021.⁶⁷ In Spain, several provisions of criminal legislation are contributing to the erosion of free speech. The Commissioner for Human Rights of the Council of Europe pointed out in a letter to the Spanish Minister of Justice that “the imposition of criminal sanctions for defamation” have

62 Liberties Rule of Law Report 2022, *ibid*.

63 Papendick M., Rees Y., Wäschle F., Zick A., [Hass und Angriffe auf Medienschaffende](#), May 06, 2020.

64 Mirovni Institut et al., [Rule of Law Report 2021: Slovenia](#), 2021.

65 Liberties Rule of Law Report 2022, *ibid*.

66 International Press Institute, [Italy urged to reform defamation laws](#), June 25, 2021.

67 O’Leary, N., [Ireland’s defamation laws are being used to ‘pressure journalists’ - EU commissioner](#), March 09, 2021.

a “chilling effect on the exercise of freedom of expression”.⁶⁸

In France, the law on the Respect for the Principles of the Republic is compromising the work of journalists and others who are trying to expose police violence: Article 36 reads, “It is an offence to reveal, disseminate or transmit, by any means, information relating to the private, family or professional life of a person that allows him or her to be identified or located for the purpose of exposing him or her or his or her family members to a direct risk of harm”,⁶⁹ which can lead to a fine of up to 75,000 EUR and five years’ imprisonment.

In Slovenia, there have been attempts to introduce new rules on the criminalisation of insults including against public officials, to punish criticism of the Prime Minister and other government representatives.⁷⁰

Meanwhile, in Slovakia, a newly proposed amendment to the Criminal Code targeting disinformation risks being abused to target stories that are simply politically sensitive. Also, on 25 February 2022, Act no. 55/2022 Coll. on certain measures in connection with the war in Ukraine gave the National Security Office of the Slovak Republic new powers to decide on blocking harmful content or harmful activity directed to, or from the cyberspace of,

the Slovak Republic. It also gave it the power to ensure the implementation of this decision. These decisions will be subject to administrative review, but the action does not have suspensory effect. Malicious content may still be blocked until 30 June 2022.

In Hungary, a new law amending the Criminal Code was introduced during the first wave of the COVID-19 pandemic when the tension between the government and the independent press was tangible. The law criminalises the spreading of misinformation deemed to hinder the effectiveness of the state defence against any danger used as grounds for establishing a special legal order, such as the COVID-19 pandemic. Those found guilty could spend up to five years in prison.⁷¹

Access to public interest information

Restrictions on access to public interest information remains an issue in Belgium, Ireland, Italy, Hungary, the Netherlands, Poland, Slovenia, and Spain. In the Netherlands, the government has failed to address issues around disclosure of sensitive information under the new Government Information Act. In Hungary, journalists were refused entry to hospitals to cover the public health emergency and authorities responded to

68 Council of Europe, Letter to the Minister of Justice of Spain, Juan Carlos Campo <https://rm.coe.int/letter-to-mr-mr-juan-carlos-campo-minister-of-justice-of-spain-by-dunj/1680a1c05e>, March 11, 2021

69 LOI n° 2021-1109 du 24 août 2021 confortant le respect des principes de la République, August 24, 2021

70 Macek S. R., [Slovenia could introduce fines for indecent behaviour against public officials](#), September 02, 2021

71 International Press Institute, [Hungary: Press freedom threatened as Orban handed new power](#), March 30, 2021

freedom of information requests very slowly and sometimes not at all.

Restrictions on access to information are found in other sensitive areas, too, such as environmental protection, as reported in Hungary and Ireland, and migration, as reported in Spain, where the Ministry of the Interior has prevented photojournalists from covering the arrival of immigrants and has refused to disclose information about the numbers of arrivals. In Poland, dozens of journalists have been refused access to the border with Belarus.

Countering disinformation

In Bulgaria, Croatia, the Czech Republic, Hungary and Italy, there are either no adequate measures to counter disinformation, or the existing legislation is obsolete or lacking in clarity. This can lead journalists to self-censor instead of effectively tackling disinformation. In Croatia, for example, the law that sanctions the spread of disinformation dates from 1994. In Hungary, disinformation appears in the mainstream and the public service media as well.

In the Czech Republic, the challenges surrounding disinformation have worsened during the pandemic.⁷² Often, the actors behind the disinformation campaigns are pro-Russian websites,

such as Sputnik. There is no specific legislation for online media and issues around disinformation are not addressed. However, the war in Ukraine has led the government to close several websites. CSOs are also working on countering disinformation: for example, the Association for International Affairs explains in ten points how to better understand and deal with disinformation.⁷³

In many countries, CSOs and investigative media centres play an active role in establishing fact-checking centres with the financial support of the European Commission.

Inadequate laws on content regulation and hate speech

In certain countries, content regulation and the legal framework to counter hate speech are inadequate. In Croatia, the new Electronic Media Act (EMA) places the responsibility for unlawful comments online on the website users, and not the hosts. In Ireland, the proposed Online Safety Media Regulation bill,⁷⁴ which aims to regulate online content, contains vague wording in defining harmful online content, which may lead to disproportionate restrictions on freedom of expression.⁷⁵ In Slovenia, there is a lack of jurisprudence on hate speech.

72 Natrass W., Disinformation is flooding the Czech Republic, says report, October 21, 2021

73 Havlicek P., [Desatero pro lepší porozumění a členění dezinformacím](#) February 07, 2021

74 Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, Online Safety and Media Regulation Bill <https://www.gov.ie/en/publication/d8e4c-online-safety-and-media-regulation-bill/> January 10, 2020

75 Irish Council for Civil Liberties, [ICCL submission on the Online Safety and Media Regulation Bill](#) March 08, 2021

Recommendations for the Commission

In the following chapter, we focus on the outcome of our research conducted in 15 EU Member States. Our findings are grouped around the four topics examined, namely i) media freedom and pluralism, ii) safety and protection of journalists and media activists, iii) freedom of expression and access to information, and iv) MFA enforcement.

The EU should use all possible means to strengthen and improve media freedom and pluralism. It should introduce the MFA to further strengthen free and pluralistic media. The MFA should introduce safeguards against loopholes and systemic problems described in this paper. It should be based on the concept of the general principles for an independent and pluralistic media market. The MFA should include measures for transparency of media ownership and safeguards for the independence of public service media. Furthermore, it should re-balance the media financing structure, including state aid and subsidies, and introduce enforcement mechanisms. Finally, the MFA should urge Member States to implement and further elaborate on rules and safeguards for the safety of journalists.

Media freedom and pluralism

- **Ownership.** The MFA should require a transparent European database that includes information about the entire beneficial ownership chain of media

outlets. All media outlets should be obliged to provide reliable and up-to-date information about their beneficial ownership and financial background to the national media authorities, other relevant national authorities and to the European Commission. The database should be accessible free of charge to the public and the Commission should play a leading role in enforcing reporting. Transparency requirements should not apply to bloggers and citizen journalists to ensure anonymity and avoid hate crimes against journalists. The rules should be inter-linked with the Open Data Directive and the Anti-Money Laundering Package of the EU. The objective of transparency is to allow the public to be aware of the possible influences behind the media they are consuming and to allow regulators to prevent media ownership being excessively concentrated in the hands of too few owners, which can have undue influence over democratic debate.

- **Funding of Media.** The MFA should ensure a fair and transparent distribution of public funds, state aid and state subsidies to media outlets, with special regard to public service media and state-funded advertising across the media sector. The financing system should contain safeguards to improve the chances for independent financings. The MFA should explicitly define the basic principles of granting state aid and subsidies

to media companies. These principles should include political impartiality, transparency, accountability, eligibility, and feasibility. State aid and subsidies should be systematically subject to review to comply with the TFEU and ensure financial and political independence. It should be defined broadly to include all costs and benefits that selectively affect competing media enterprises. The MFA should require periodic reporting to the Commission from the Member States about state aid and subsidies granted to the media sector. The objective of monitoring state subsidies is to prevent governments from influencing media coverage by either depriving critical outlets of revenue or rewarding outlets with revenue in return for favourable coverage of the government.

The Commission should initiate research on flexible digital solutions to encourage content distributions and provide income to media outlets, such as micro-payments, metered paywalls, and partial subscriptions.

- **Independence and effectiveness of National Media Regulation Authorities.** The MFA should contain provisions to ensure independent and well financed supervisory authorities at national and EU level. This would help reduce the risk of political influence over media outlets. It should require that the appointment

mechanism of NMRA members be democratic and transparent. It should also set out the basic principles of selection criteria. These should include proven expertise in matters of media regulation, independence from political influence, and private interests in the related industries that cause a conflict of interest. In addition, the MFA should require that any decisions in their competencies, with special focus on licensing and supervision decisions, comply with the standards and requirements of media freedom and pluralism.

Safety and protection of journalists and media activists

- **Protect journalists and media activists.** The Commission should urge Member States to put in place safeguards to ensure a safe environment for journalists and media workers to protect them from violence, harassment, and surveillance, including from law enforcement authorities. The Commission's Recommendation on the protection, safety and empowerment of journalists from 16 September 2021 should be implemented at the Member State level. The full implementation of the Recommendation CM/Rec(2016)4 of the Council of Europe's Committee of Ministers to Member States on the

protection of journalism and the safety of journalists and other media actors⁷⁶ is also needed across Europe to create protective measures and a safe environment for media professionals.

- **Support editorial independence and protect journalistic sources.** The MFA should support editorial independence from any form of public or private interference. The Commission should urge Member States to implement existing mechanisms to **protect journalists, with a special focus on protecting journalistic sources** in judicial and administrative procedures. This should be done by providing privileged exemption to journalists from inspection of their homes, offices, and electronic devices, secret surveillance, and police investigations. The Commission should use all its available powers to ensure national authorities properly implement the **Whistleblower Protection Directive**.
- **SLAPPs.** The Commission should come forward with a proposal for an EU Anti-SLAPP Directive based on a sound and comprehensive understanding of SLAPPs and introduce measures to protect journalists from all forms of litigation that hinder their possibility to work. The measures should include accelerated proceedings that can filter out SLAPPs as quickly as possible, sanctions to punish

SLAPP litigants and financial support and compensation for enabling SLAPP victims to fight off SLAPPs. Liberties is a member of the Coalition Against SLAPPs in Europe (CASE). We call attention to the list of recommendations elaborated by prominent CSOs and press organisations.

Freedom of expression and information

- **The values protected by the GDPR and the right to freedom of expression and access to information should be balanced.** The GDPR offers protection to people against privacy breaches, while it also serves as a basis for protecting journalistic sources. However, the GDPR should not be interpreted as an obstacle for investigative journalists to report about public matters, especially when corruption or misuse of power is at stake. The MFA should define the principle for a fair balance between the right to data protection and press freedom.
- **Fighting disinformation.** The Commission's **Code and the Guidance on Strengthening the Code of Practice on Disinformation** is a good starting point to effectively tackle disinformation. However, legislating to address disinformation that is, by nature, legally acceptable could

76 Recommendation CM/Rec(2016)4, https://search.coe.int/cm/Pages/result_details.aspx?Objec-tId=09000016806415d9#_ftn1, April 13, 2016.

lead to unintended negative consequences limiting legitimate free speech. Instead, the EU should address the business model that incentivises the spread of disinformation by allowing it to be **monetised**. Actors participating in ad placements should adopt self-regulatory measures to avoid placing advertisements next to disinformation content. At the same time, the Commission should **also** clean the information ecosystem by limiting the **harmful effects of targeted advertising**. This can be achieved through the Digital Services Act package.

- **Defamation.** The criminalisation of defamation, libel, and slander creates a climate where journalists are wrongfully sued and pressured to silence or self-censor themselves. The Commission should pressure Member States to take steps to bring laws on defamation, libel, and slander, **in line with international human rights standards**. Member States should be encouraged to promote a discussion on legal ethics and professional standards and awareness-raising initiatives and training.

consisting of independent experts, who could participate in the monitoring process of the Member State-level work.

- **Annual monitoring.** Annual monitoring of the status of media freedom and pluralism in Member States, including all the issues mentioned in this paper, should be part of the annual Rule of Law Report, along with refined benchmarks defined by the MFA and elaborated on by the Board of Media Freedom.
- **Benchmarks.** The benchmarks on media freedom in the Commission's Rule of Law Report should be clearer and more specific. Therefore, they should be further elaborated. More attention should be given in particular to the capture of and state control over public service media, state advertising and the protection of journalists.

*For the regulatory background, please see our policy paper *Recommendations for the Upcoming European Media Freedom Act*: <https://www.liberties.eu/f/QSGNE8>.*

Enforcement mechanisms

- **Establishing a Board of Media Freedom.** To ensure that the MFA does not become a toothless tiger, it must create **consistent enforcement mechanisms** at national and EU levels. We recommend establishing an overarching European body, the **Board of Media Freedom**,

Reference link to study

This policy paper is available online:

<https://www.liberties.eu/f/KBEEq5>

For the Recommendations for the Upcoming European Media Freedom Act, please visit:

<https://www.liberties.eu/f/QSGNE8>

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The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting and protecting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of national civil liberties NGOs from across the EU. Unless otherwise indicated, the opinions expressed by Liberties do not necessarily constitute the views of our member organisations.

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