



2021/2036(INI)

7.9.2021

OPINION

of the Committee on Culture and Education

for the Committee on Legal Affairs and the Committee on Civil Liberties,
Justice and Home Affairs

on strengthening democracy and media freedom and pluralism in the EU: the
undue use of actions under civil and criminal law to silence journalists, NGOs
and civil society
(2021/2036(INI))

Rapporteur for opinion: Loucas Fourlas

(*) Associated committee – Rule 57 of the Rules of Procedure

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SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Legal Affairs and the Committee on Civil Liberties, Justice and Home Affairs, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

1. Underlines that an independent, impartial, professional and responsible media is a cornerstone of democracy; recalls that the Union is founded on the common values enshrined in Article 2 of the Treaty on European Union (TEU) and reiterates that the fundamental rights of media freedom and pluralism are laid down in Article 11 of the Charter of Fundamental Rights of the European Union; expresses serious concerns about the situation in some Member States where media freedom and freedom of expression are deteriorating, where journalists are silenced, subjected to violence and harassed, where there is shrinking space for civil society organisations, non-governmental organisations (NGOs) and human rights defenders, and where political interference is limiting access to information of public interest; underlines the urgent need to propose legislative and non-legislative measures, in particular the Media Freedom Act, to secure a safer environment for public watchdogs in the EU;
2. Highlights that the fundamental rights to freedom of expression, the right to receive information and the right to public participation are essential to a healthy democracy; expresses serious concern about the shrinking space for civil society organisations, and the threat to journalists, human rights defenders and others who communicate on important matters in the public interest and who are critical of powerful members of society, and the growing use of strategic lawsuits against public participation as a way to silence and intimidate independent media and journalists, civil society organisations, rights defenders, activists, whistle blowers, academics, artists and sexual assault and domestic violence survivors;
3. Calls on the Member States to ensure and maintain the independence of media from political and economic pressure, and to guarantee media pluralism; calls on the Commission to publicly address any abuses by public authorities and calls on Member States to ensure transparency on media ownership; urges the Member States and the Commission to develop an ambitious, robust and complete legal framework and a set of tools in its future Media Freedom Act to strengthen the EU's capacity to monitor and sanction any actions that would limit or harm media freedom and to ensure media pluralism; recalls the instruments enshrined in the Treaties, in particular Article 7 of the TEU on the procedure to determine that there is a clear risk of a serious breach by a Member State of the values referred to in Article 2 of the TEU and act accordingly; stresses that no EU funds should be allocated to media organisations that are captured by Member States' governments;
4. Is alarmed that the current COVID-19 pandemic is not only continuing to have a significant negative impact on public health, social welfare and the economy, but is also impacting the whole media sector, notably causing falling revenues and deteriorating working conditions for journalists, thus hampering media freedom and pluralism; is concerned, furthermore, that in times such as the current health pandemic, when valid,

reliable and timely information are of the utmost importance, citizens and civil society organisations are facing serious threats to media freedom, including restrictions on access to justice and information for the public, with journalists prosecuted or assaulted for reporting COVID-19 related news¹; warns that governments have been using the coronavirus emergency as an excuse to implement various restrictive measures limiting the freedom of expression and tighten media censorship both online and offline; calls on the Commission to conduct an audit of restrictions on media freedoms introduced under the pandemic and calls for such restrictions to be rolled back in full and for the pre-pandemic situation to be reinstated; asks the Commission, further, to mobilise funds to combat the spread of disinformation and to support journalism, especially investigative journalism, with a view to enabling independent reporting on public affairs, including corruption and abuses of public office;

5. Acknowledges that the digital shift has profoundly changed the media landscape, with new patterns to search, access, curate, share or retrieve online news items; stresses that this has increased the market pressure on smaller media organisations, in particular local news media, exacerbated market concentration and often set unfair competition conditions which put at risk the long-term existence and economic sustainability of already vulnerable media outlets and thereby the diversity of media players;
6. Highlights that Reporters Without Borders argue that the next decade will be crucial for ensuring the preservation of media freedom, as it is often threatened by populist and illiberal governments; calls for funding mechanisms to protect the media, particularly investigative journalists and their sources, from discriminatory regulatory and market practices and government interference; reaffirms the need to independently monitor media freedom across the EU and to encourage Member States to implement and enhance existing instruments such as the Media Pluralism Monitor;
7. Calls on the Commission to follow up on its European Democracy Action Plan and to propose without delay a directive setting common minimum standards for all Member States against strategic lawsuits against public participation (SLAAPs) and ensuring that they are dismissed at an early stage in order to protect independent media and journalists, press publishers, media organisations, academics, civil society organisations and NGOs from financial pressure and vexatious lawsuits, as well as threats of legal action, intended to silence or intimidate them; underlines that a directive against SLAPPs should include provisions for expeditious procedural dismissal of manifestly unfounded cases identified as SLAAPs by judicial authorities and effective remedies for defendants who report breaches of Union law or reveal information in the public interest; underlines that a directive against SLAPPs should address and proscribe forum shopping, limiting the possibilities for the selection of a jurisdiction in which to prosecute defendants in SLAPP cases to their country of residence; stresses the need to act when governments or private individuals use legal measures to silence their critics and opponents in a manner which is incompatible with individuals' fundamental rights and the need to increase judicial training for press publishers' in-house lawyers, as well as all lawyers and judges, to enable them to identify and deal with SLAPPs, and raise awareness of recourse options available; calls for the creation of an EU fund to support

¹ https://www.amnesty.org/en/latest/news/2020/05/global-crackdown-on-journalists-weakens-efforts-to-tackle-covid19/?fbclid=IwAR0GO09WSuyXFBp-VXhqmQJXuf8Hll81PEAESEkUbIM_slFbAftNGIE3yWQ

victims of SLAAPs, providing them with financial or legal assistance in exercising the right to defence, and for the creation of a safe network where SLAAP victims can exchange their experiences;

8. Underlines the essential role that whistle-blowers play in uncovering corruption, reporting breaches of Union law that are harmful to the public interest, and recalls the obligation for Member States to transpose the Whistle-blower Directive² into national law by 17 December 2021; underlines in this regard the role of media in disclosing information of public interest on law breaches; insists that the confidentiality of journalistic sources must be preserved and that secure and independent internal and external reporting channels be put in place to allow whistle-blowers to report breaches of Union law and to ensure that they are protected against retaliation;
9. Welcomes the inclusion in the Commission's annual report on the rule of law of a specific chapter on monitoring media freedom and pluralism; urges the Commission to closely monitor the undue use of actions under civil and criminal law to silence journalists, NGOs, and civil society, including by creating an EU-wide publicly accessible database that maps identified SLAPP cases in all Member States, and to provide details of such actions in the country chapters of future rule of law reports;
10. Recalls that some journalists and editorial teams, and a significant number of permanent and temporary staff of media organisations, are subject to varied and often precarious working conditions with low salaries, and that they often work under freelance contracts; stresses the need to ensure stable and fair working conditions for example through adequate professional representation; stresses the need for clearer rules regarding mutual recognition of the journalistic profession and the status of journalists across the EU; recalls that the intellectual property rights of journalists need to be properly implemented and that the value of their work should be appropriately recognised and remunerated; stresses that journalists and the media must be adequately supported in order to ensure that journalism is independent and socially responsible and that intimidation, which may result in self-censorship or censorship, can be resisted;
11. Welcomes the launch of the 'NEWS' initiative under the Media and Audiovisual Action Plan set out by the Commission in December 2020 (COM(2020)0784); underlines, however, the need for clarification on its scope, financing and functioning;
12. Calls on the Commission and the Member States to increase the support available for news media organisations, with special attention to SMEs, local and regional media outlets and radio stations; stresses that allocations for the media sector should be increased across various multiannual financial framework (MFF) programmes;
13. Is concerned about the increase in online hate speech, verbal abuse, harassment and violation of privacy online, notably aimed against freedom of the press and freedom of expression; underlines that online threats and harassment are particularly persistent for women journalists and other marginalised groups of people, especially those who face multiple forms of discrimination; calls on the Commission and the Member States to draft guidelines for further combating hate speech online and offline; stresses the need

² 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, OJ L 305, 26.11.2019, p. 17.

for better cooperation between authorities and online platform service providers and calls on the Commission and the Member States to address online harassment and hate speech effectively, without impinging on the freedom of the press and the fundamental right to freedom of expression;

14. Believes that a directive against SLAPPs should cover a variety of claims such as defamation, libel and slander, and calls on the Commission to ensure that there is a fair balance between freedom of expression and the right of access to justice; observes that overprotective defamation laws may have a chilling effect on freedom of expression and public debate; calls on the Member States to ensure that there is no misuse of prosecution for defamation, to safeguard the independence of prosecutors in these cases, and to ensure that civil law provides effective protection of the dignity of persons affected by defamation; calls on Member States, furthermore, to set reasonable and proportionate maximum amounts for fines for damages;
15. Calls on the Member States to ensure that public service media have the means to fulfil their cultural, social and educational role; invites the Member States, in this regard, to implement the already established regulatory frameworks such as AVMSD, to monitor media ownership and ensure that information is fully transparent and easily accessible to citizens; stresses the importance of independent in-house media regulatory mechanisms to ensure that all workers including journalists are protected from political and economic pressure, highlights that the non-partisan individuals on the supervisory boards of public service media organisations need to be appointed impartially so that they can act in the public interest and not that of any one party or ideology;
16. Calls on all Member States to swiftly implement the Audiovisual Media Services Directive³ as revised in 2018 in all its provisions; calls on the Commission to closely monitor developments in this regard, with special attention to the provisions of Article 30 on the role, powers and independence of audiovisual media services regulators; insists that national regulatory authorities or bodies must exercise their powers impartially and transparently and in accordance with the objectives of this directive, in particular media pluralism, cultural and linguistic diversity, consumer protection, accessibility, non-discrimination, the proper functioning of the internal market and the promotion of fair competition; insists furthermore that national regulatory authorities or bodies should have adequate financial and human resources and enforcement powers to carry out their functions effectively and to contribute to the work of the European Regulators Group for Audiovisual Media Services (ERGA);
17. Welcomes the setting up of ERGA and encourages cooperation within the internal market among audiovisual regulatory bodies, as well as with other regulatory bodies of relevance for online news activities;
18. Welcomes the launch of the Conference on the Future of Europe and calls on the Commission and the Member States to make the best use of its forthcoming conclusions to strengthen the participative democratic functioning of societies;

³ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 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, OJ L 303, 28.11.2018, p. 69.

19. Encourages the Member States and the Commission to introduce effective measures to ensure better protection for the personal safety of journalists, in particular investigative journalists, including through the development and facilitation of international networks, and awaits the announced Commission recommendation on ensuring the safety of journalists in the EU; calls on the Member States to adopt preventive measures such as police protection and to make available schemes providing relocation, safe houses or shelters whenever there is a threat to journalists, including those reporting from conflict of high-risk countries; emphasises that ensuring the safety of journalists is paramount to ensuring that democracy and freedom of expression, as well as journalists' resources, are protected;
20. Welcomes the introduction of new actions under the cross-sectoral strand of the Creative Europe programme, to enhance media freedom, quality journalism and media literacy; emphasises that a critical use of media content is essential to people's understanding of current issues and to their contribution to public life; calls, therefore, on the Commission and the Member States to promote and support critical thinking and media literacy projects, especially at schools, to empower everyone with the means to access information, detect disinformation and develop critical thinking; emphasises the importance of education regarding media pluralism, democracy and SLAPPs in sensitising the public and legal professionals, in particular judges and lawyers, to the issue; calls on the Commission and the Member States to develop public awareness campaigns and specialised training for legal professionals; calls for greater investment in training journalists, including those from minority groups, notably with a view to helping them adapt to changing technological, societal or other developments, and reiterates the need to increase the level of information and understanding about the EU that is available to the different national media; encourages the EU institutions to continue to provide content and information in all EU languages;
21. Calls on the Member States and media organisations to support and develop incentive measures for gender-equal participation and representation at all levels; emphasises that female journalists face the same pressures as their colleagues in content-related issues but more often are faced with sexual violence and harassment; in this regard stresses the importance of gender mainstreaming across the whole media sector; calls on the Commission to monitor and examine in its future reports the links between the deterioration of media freedom and the increase of scapegoating and targeting of minorities and marginalised groups, examining the effects that hate crimes and hate speech have on discrimination in the Union;
22. Calls on the Commission to recognise fake news, disinformation and misinformation as a threat, welcomes the Commission's Assessment of the Code of Practice on Disinformation in 2020 and the guidelines to improve the situation; urges the Commission to draw up its findings and to set up a European Digital Media Observatory, and welcomes its announcement of a legislative proposal on transparency of sponsored political content; emphasises the need to encourage online platforms to detect and address disinformation and misinformation in an open and transparent manner.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	31.8.2021
Result of final vote	+: 25 -: 0 0: 4
Members present for the final vote	Asim Ademov, Ilana Cicurel, Gilbert Collard, Gianantonio Da Re, Laurence Farreng, Tomasz Frankowski, Chiara Gemma, Alexis Georgoulis, Hannes Heide, Petra Kammerevert, Niyazi Kizilyürek, Ryszard Antoni Legutko, Predrag Fred Matić, Dace Melbārde, Victor Negrescu, Niklas Nienäß, Peter Pollák, Marcos Ros Sempere, Domènec Ruiz Devesa, Monica Semedo, Andrey Slabakov, Massimiliano Smeriglio, Michaela Šojdrová, Sabine Verheyen, Salima Yenbou, Theodoros Zagorakis, Milan Zver
Substitutes present for the final vote	Vlad-Marius Botoş, Loucas Fourlas

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

25	+
ECR	Dace Melbārde,
NI	Chiara Gemma
PPE	Asim Ademov, Loucas Fourlas, Tomasz Frankowski, Peter Pollák, Michaela Šojdrová, Sabine Verheyen, Theodoros Zagorakis, Milan Zver
Renew	Vlad-Marius Botoș, Ilana Cicurel, Laurence Farreng, Monica Semedo
S&D	Hannes Heide, Petra Kammerevert, Predrag Fred Matić, Victor Negrescu, Marcos Ros Sempere, Domènec Ruiz Devesa, Massimiliano Smeriglio
The Left	Alexis Georgoulis, Niyazi Kizilyürek
Verts/ALE	Niklas Nienaaß, Salima Yenbou

0	-

4	0
ECR	Ryszard Antoni Legutko, Andrey Slabakov
ID	Gilbert Collard, Gianantonio Da Re

Key to symbols:

+ : in favour

- : against

0 : abstention

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