



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Civil Liberties, Justice and Home Affairs*

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**2011/2246(INI)**

8.10.2012

# **DRAFT REPORT**

on the EU Charter: standard settings for media freedom across the EU  
(2011/2246(INI))

Committee on Civil Liberties, Justice and Home Affairs

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the EU Charter: Standard settings for media freedom across the EU

(2011/2246(INI))

*The European Parliament,*

- having regard to Article 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights and the UNESCO Convention on the Protection and the Promotion of the Diversity of Cultural Expressions,
- having regard to Article 10 of the European Convention on Human Rights, the case-law of the European Court of Human Rights, the declarations, recommendations and resolutions of the Council of Ministers and Parliamentary Assembly of the Council of Europe, and the documents of the Venice Commission and Commissioner for Human Rights on freedom of expression, of information and of the media,
- having regard to Article 11 of the EU Charter of Fundamental Rights, Articles 2, 7 and 9-12 of the TEU, the treaty articles relating to freedom of establishment, freedom to provide services, free movement of persons and goods, competition and State aids, and Article 167 of the TFEU (culture),
- having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 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)<sup>1</sup>,
- having regard to the Commission staff working document on media pluralism in the Member States of the European Union (SEC(2007)0032),
- having regard to the establishment by the Commission of a High-Level Group on Media Freedom and Pluralism,
- having regard to its resolutions of 20 November 2002 on media concentration<sup>2</sup>, of 4 September 2003 on the situation as regards fundamental rights in the European Union (2002)<sup>3</sup>, of 4 September 2003 on Television without Frontiers<sup>4</sup>, of 6 September 2005 on the application of Articles 4 and 5 of Directive 89/552/EEC (“Television without Frontiers”), as amended by Directive 97/36/EC, for the period 2001-2002<sup>5</sup>, of 22 April 2004 on the risks of violation, in the EU and especially in Italy, of freedom of expression and information (Article 11(2) of the Charter of Fundamental<sup>6</sup>, of 25 September 2008 on

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<sup>1</sup> OJ L 95, 15.4.2010, p. 1.

<sup>2</sup> OJ C 25 E, 29.1.2004, p. 205.

<sup>3</sup> OJ C 76 E, 25.3.2004, p. 412.

<sup>4</sup> OJ C 76 E, 25.3.2004, p.453.

<sup>5</sup> OJ C 193 E, 17.8.2006, p. 117.

<sup>6</sup> OJ C 104 E, 30.4.2004, p. 1026.

concentration and pluralism in the media in the European Union<sup>1</sup>, and of 10 March 2011 on media law in Hungary<sup>2</sup>,

- having regard to the work carried out by OSCE on media freedom, and in particular by its Representative on Freedom of the Media, and the related reports,
  - having regard to the reports of NGOs on the media, such as those by Reporters Without Borders (Press Freedom Indexes) and Freedom House (Freedom of the Press reports),
  - having regard to the studies on media-related issues published by Parliament<sup>3</sup> and the European University Institute's Centre for Media Pluralism and Media Freedom<sup>4</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Culture and Education (A7-0000/2012),
- A. whereas the media play a fundamental 'public watchdog' role in democracy, as they allow citizens to exercise their right to be informed, to scrutinise and to judge the actions and decisions of those exercising or holding power or influence, in particular on the occasion of electoral consultations;
- B. whereas citizens' fundamental rights to freedom of expression and information can be guaranteed only through media freedom and pluralism, whereby journalists and the media can exercise their right and duty to inform citizens on events and decisions of public interest;
- C. whereas NGOs, associations monitoring media freedom, the Council of Europe and OSCE, as well as EP studies and resolutions, have reported on and warned against the threats posed to the media by governments, including in the European Union<sup>5</sup>;
- D. whereas the Council of Europe and OSCE have dealt with the human and democratic dimension of communication through detailed declarations, resolutions, recommendations, opinions and reports on media freedom, pluralism and concentration, creating a significant body of common pan-European minimum standards in this field;
- E. whereas the European Union is committed to protecting media pluralism as an essential pillar of the right to information and freedom of expression, as enshrined in Article 11 of the Charter of Fundamental Rights;

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<sup>1</sup> OJ C 8 E, 14.1.2010, p. 75.

<sup>2</sup> Texts adopted, P7\_TA(2011)0094.

<sup>3</sup> 'The Citizen's Right to Information: Law and Policy in the EU and its Member States', June 2012, available at <http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=75131>

<sup>4</sup> <http://cmpf.eui.eu/Home.aspx>

<sup>5</sup> These include direct or indirect partisan political control and influence over the media or media control bodies, the barring or limiting of market access for some media outlets through broadcast licensing and authorising procedures, the misuse and abuse of the rules on national or military security and public order or morality to impose censorship and impede access to documents and information, violation of the principle of the confidentiality of sources, the absence of laws on media concentration and conflicts of interest and the use of advertising to influence editorial lines.

- F. whereas Parliament has repeatedly expressed concern about media freedom, pluralism and concentration and has called on the Commission to take appropriate measures, including by proposing a legislative initiative on the matter;
- G. whereas on 16 January 2007 the Commission launched a ‘three-step approach’, comprising a Commission Staff Working Paper on Media Pluralism, an independent study on media pluralism in EU Member States, with indicators for assessing media pluralism in the EU Member States (in 2007), and a Commission Communication on the indicators for media pluralism in the EU Member States (in 2008), followed by a public consultation<sup>1</sup>;
- H. whereas this approach was discontinued by the Commission, as neither the Communication, nor the public consultation were ever launched;
- I. whereas, with the entry into force of the Lisbon Treaty, the Charter of Fundamental Rights has become binding; whereas the Charter is the first international document that explicitly states that ‘the freedom and pluralism of the media shall be respected’ (Article 11(2)); whereas the Treaties provide the EU with a mandate and powers to ensure that fundamental rights are protected in the European Union, notably on the basis of Articles 2 and 7 of the TEU;
- J. whereas Member States have a duty to protect freedom of opinion, expression, information and the media, as these principles are also guaranteed in their constitutions and laws; whereas, should these freedoms be placed at serious risk or violated in a Member State, the European Union must intervene on the basis of the Treaties and of the Charter to protect the European democratic and pluralistic order and fundamental rights;
- K. whereas the EU has competences in media-related fields such as the internal market, audiovisual policy, competition, telecommunications, State subsidies, public service obligations and fundamental rights; whereas Parliament has stated that, on this basis, minimum essential standards should be defined in order to ensure, guarantee and promote freedom of information and an adequate level of media pluralism and independent media governance<sup>2</sup>; whereas the Commission has entrusted the Centre for Media Pluralism and Media Freedom of the European University Institute to conduct an analysis on the scope of EU competences in the field of media freedom;
- L. whereas concerns arise in relation to the challenges facing public service broadcasters in terms of editorial independence, staff recruitment, pluralism, neutrality and quality of information, access and funding, caused by undue political and financial interference, as well as the economic crisis;
- M. whereas the private media are faced with growing domestic but also cross-border concentration, with media conglomerates distributing their products in different countries, rising intra-EU media investments, and non-European investors and media exerting an increasing influence in Europe;

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<sup>1</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/07/52>

<sup>2</sup> See paragraph 6 of the European Parliament resolution of 10 March 2011 on media law in Hungary (P7\_TA(2011)0094).

1. Calls on the Member States and the European Union to respect, guarantee, protect and promote the fundamental right to freedom of expression and information, and media freedom and pluralism, and hence to refrain from exerting, and develop mechanisms to impede, threats to media freedom such as trying to unduly and politically influence and impose partisan control and censorship on the media;
2. Calls for the devising of procedures and mechanisms for the selection and appointment of media heads, management boards, media councils and regulatory bodies that are transparent, based on merit and indisputable experience and that ensure professionalism, integrity, independence, consensus across the political and social spectrum and continuity, instead of political or partisan criteria in the framework of a spoil system linked to the results of elections or the will of those in power;
3. Highlights that media pluralism is a pillar of media freedom, in terms of ensuring that media are diversified, ensure access to different social and political actors, opinions and viewpoints (including NGOs, citizens' associations, minorities, etc), and offer a wide range of views;
4. Recalls the important role of the public service media, funded by citizens through the State, and their institutional duties to provide high quality and accurate and reliable information; stresses that the private media have similar duties in relation to information, notably of institutional and political nature, in particular on the occasion of elections, referenda, etc;
5. Stresses that measures to regulate the access of media outlets to the market through broadcast licensing and authorising procedures, rules on the protection of the State, national and military security and public order and rules on the protection of morality and of children should not be abused in order to impose political or partisan control and censorship on the media and impede the fundamental right of citizens to be informed about issues of public interest and importance; warns that the media should not be threatened by the impact of specific interest groups and lobbies, economic actors, or religious groups;
6. Believes that media ownership and management should be transparent and not concentrated; calls on the Commission and the Member States to ensure competition so as to address and prevent dominant positions and guarantee the access of new entrants on the market; calls for rules to ensure that conflicts of interest are properly addressed and resolved; highlights that advertising and sponsoring may cause interference with the editorial line of media;
7. Underlines the importance of ensuring the independence of journalists, both from internal pressures from editors or owners and externally from political or economic lobbies or other interest groups; highlights the fact that the right of access to documents and information is fundamental and calls for the full protection of the confidentiality of sources principle and for the strict application of the European Court of Human Rights case-law in this area, including in relation to whistle-blowing; calls for journalists to be protected from threats and violence, as investigative journalists are often threatened as a result of their activities; highlights the need to support and promote investigative journalism and to promote ethical journalism in the media by developing professional

standards and appropriate redress procedures;

8. Underlines the need to draw up rules in relation to political information in the audiovisual media in order to guarantee fair access to different political competitors, opinions and viewpoints, in particular on the occasion of elections and referenda, with a view to ensuring that citizens can form their opinions without undue influence from one dominant opinion-forming power;
9. Underlines the importance of monitoring media freedom in Europe and reporting on a yearly basis on the matter, on the basis of the detailed standards developed by the Council of Europe and the OSCE and of the risk-based analytical approach and indicators developed by the independent study drawn up for the Commission, in liaison with NGOs, stakeholders and experts; believes that the Commission, the Fundamental Rights Agency and/or the EUI Centre for Media Pluralism and Media Freedom must carry out this task;
10. Calls on the Commission to institutionalise EU-level cooperation and coordination on the media, for instance by establishing a European regulators' group for audiovisual media services, and to harmonise the status of the national regulatory authorities provided for in Articles 29 and 30 of the Audiovisual Media Services Directive (AVMSD), ensuring that they are independent, impartial and transparent as regards their decision-making processes, the exercise of their powers and the monitoring process, and that they have appropriate sanctioning powers to ensure that their decisions are implemented;
11. Calls on the Commission and the Member States to take appropriate and timely measures where concerns arise in relation to freedom of expression, information, media freedom and pluralism in the EU and in its Member States;
12. Calls the Commission and the Member States to ensure transparency in media ownership and to ascertain whether public funds are used efficiently by Member States in relation to the public service media;
13. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of Member States, the Fundamental Rights Agency, the OSCE, and the Council of Europe's Committee of Ministers, Parliamentary Assembly, Venice Commission and Commissioner for Human Rights.