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DRAFT REPORT

on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms
(2020/2009(INI))

Committee on Civil Liberties, Justice and Home Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on strengthening media freedom: the protection of journalists in Europe, hate speech, disinformation and the role of platforms (2020/2009(INI))

The European Parliament,

- having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the European Convention on Human Rights (ECHR),
- having regard to the case law of the Court of Justice of the European Union and the European Court of Human Rights (ECtHR),
- having regard to the work carried out by the Council of Europe to promote the protection and safety of journalists, including Recommendation CM/Rec(2018)1[1] of the Committee of Ministers to member states on media pluralism and transparency of media ownership and the declaration by the Committee of Ministers on the financial sustainability of quality journalism in the digital age,
- having regard to the Commission communication of 29 January 2020 containing the Commission Work Programme 2020 (COM(2020)0027),
- having regard to the Commission communication of 17 July 2019 entitled ‘Strengthening the rule of law within the Union: A blueprint for action’ (COM(2019)0343),
- having regard to the Commission communication of 26 April 2018 entitled ‘Tackling online disinformation: a European approach’ (COM(2018)0236),
- having regard to the Commission recommendation of 1 March 2018 on measures to effectively tackle illegal content online (C(2018)1177),
- having regard to the Commission’s Action Plan on Disinformation of 5 December 2018,
- having regard to the Commission’s Code of Conduct on Countering Illegal Hate Speech Online, launched in May 2016 and to its fourth evaluation round, resulting in the document ‘Factsheet - 4th monitoring round of the Code of Conduct’,
- 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 or AVMSD)¹,

¹ OJ L 95, 15.4.2010, p. 1.

- having regard to the Council conclusions of 14 November 2018 on the strengthening of European content in the digital economy,
- having regard to the EEAS Special Report update of 24 April 2020 entitled ‘Short Assessment of Narratives and Disinformation around the COVID-19/Coronavirus Pandemic’,
- having regard to its resolution of 17 April 2020 on EU coordinated action to combat the COVID-19 pandemic and its consequences²,
- having regard to its resolution of 9 January 2020 on ongoing hearings under Article 7(1) of the TEU regarding Poland and Hungary³,
- having regard to its resolution of 18 December 2019 on public discrimination and hate speech against LGBTI people, including LGBTI-free zones⁴,
- having regard to its resolution of 18 December 2019 on the rule of law in Malta following the recent revelations surrounding the murder of Daphne Caruana Galizia⁵,
- having regard to its resolution of 10 October 2019 on foreign electoral interference and disinformation in national and European democratic processes⁶,
- having regard to its resolution of 19 September 2019 on the importance of European remembrance for the future of Europe⁷,
- having regard to its resolution of 28 March 2019 on the situation of the rule of law and the fight against corruption in the European Union, specifically in Malta and Slovakia⁸,
- having regard to its resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017⁹,
- having regard to its resolution of 17 April 2018 on gender equality in the media sector in the EU¹⁰,
- having regard to its resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights¹¹,
- having regard to its resolution of 25 October 2018 on the use of Facebook users’ data by Cambridge Analytica and the impact on data protection¹²,

² Texts adopted, P9_TA(2020)0054.

³ Texts adopted, P9_TA(2020)0014.

⁴ Texts adopted, P9_TA(2019)0101.

⁵ Texts adopted, P9_TA(2019)0103.

⁶ Texts adopted, P9_TA(2019)0031.

⁷ Texts adopted, P9_TA(2019)0021.

⁸ Texts adopted, P8_TA(2019)0328.

⁹ Texts adopted, P8_TA(2019)0032.

¹⁰ OJ C 390, 18.11.2019, p. 19.

¹¹ OJ C 238, 6.7.2018, p. 57.

¹² OJ C 324, 27.9.2019, p. 392.

- having regard to its resolution of 3 May 2018 on media pluralism and media freedom in the European Union¹³,
 - having regard to its resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová¹⁴,
 - having regard to its resolution of 12 December 2017 on the EU Citizenship Report 2017: Strengthening Citizens’ Rights in a Union of Democratic Change¹⁵,
 - having regard to its resolution of 3 October 2017 on the fight against cybercrime¹⁶,
 - having regard to its resolution of 15 June 2017 on online platforms and the digital single market¹⁷,
 - having regard to its resolution of 14 March 2017 on fundamental rights implications of big data: privacy, data protection, non-discrimination, security and law enforcement¹⁸,
 - having regard to its resolution of 15 November 2017 on the rule of law in Malta¹⁹,
 - having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights²⁰,
 - having regard to the study of 28 February 2019 of Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs entitled ‘Disinformation and propaganda - impact on the functioning of the rule of law in the EU and its Member States’,
 - having regard to Rule 54 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Culture and Education,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2020),
- A. whereas media freedom, pluralism and independence are crucial components of the right of freedom of expression and are essential to the democratic functioning of the EU and its Member States;
- B. whereas media capture, hate speech and disinformation are increasingly being used as tools to intensify social polarisation, which is in turn exploited for political purposes; whereas combating these phenomena is not only relevant to the domain of human rights, but is also a fundamental factor in terms of the defence of the rule of law and democracy in the EU;

¹³ OJ C 41, 6.2.2020, p. 64.

¹⁴ OJ C 390, 18.11.2019, p. 111.

¹⁵ OJ C 369, 11.10.2018, p. 11.

¹⁶ OJ C 346, 27.9.2018, p. 29.

¹⁷ OJ C 331, 18.9.2018, p. 135.

¹⁸ OJ C 263, 25.7.2018, p. 82.

¹⁹ OJ C 356, 4.10.2018, p.5

²⁰ OJ C 215, 19.6.2018, p. 162.

- C. whereas according to the 2020 World Press Freedom Index, the COVID-19 pandemic has highlighted and amplified many other crises that threaten the right to freely reported, independent, diverse and reliable information;
- D. whereas journalists and other media actors continue to be at risk of violence, threats, harassment, pressure, public shaming and even assassination in the EU as a result of their investigative activities to protect the public interest;
- E. whereas in addition to violence, intimidation and harassment of journalists there is lack of prosecution of the perpetrators of these crimes;
- F. whereas the global COVID-19 crisis is having a devastating social and economic impact on the media sector;
- G. whereas the internet and social media play a role in spreading hate speech and fostering radicalisation leading to violent extremism, through the circulation of illegal content;
- H. whereas the AVMSD obliges the authorities in every Member State to ensure that audiovisual media services do not contain any incitement to hatred based on race, sex, religion or nationality;
- I. whereas the spread of false news and disinformation available via social media or search websites poses a threat to freedom of speech and expression and the independence of the media, and has strongly impaired the credibility of the traditional media;
- J. whereas disinformation related to COVID-19 may cause panic and social unrest and needs to be addressed; whereas measures to combat disinformation cannot be used as a pretext for introducing disproportionate restrictions on press freedom;

Media freedom, media pluralism and the protection of journalists in Europe

1. Reiterates its continued deep concern about the state of media freedom within the EU in the context of the abuses and attacks still being perpetrated against journalists and media workers in the Member States because of their activities, as well as the growing public denigration and general weakening of the profession, weighing particularly heavily on local, investigative and cross-border journalism;
2. Is deeply shattered by the murders of Daphne Caruana Galizia in Malta and Ján Kuciak and his fiancée Martina Kušnírová in Slovakia due to their investigative work, and reiterates the importance of an independent investigation to bring to justice the perpetrators of and masterminds behind these crimes;
3. Strongly reiterates its call on the Commission to treat attempts by Member State governments to damage media freedom and pluralism as constituting a serious and systematic abuse of powers and as going against the fundamental values of the EU as enshrined in Article 2 TEU; welcomes, therefore, the Commission's intention to include a specific chapter on monitoring media freedom and pluralism in its Annual Report on the Situation of the Rule of Law within the EU; urges the Commission to take into account the impact of the emergency measures taken in 2020 in the context of COVID-19 on press freedom, media pluralism and safety of journalists; in this context, recalls

Parliament's repeated call for a permanent, independent and comprehensive mechanism covering democracy, the rule of law and fundamental rights in the EU;

4. Highlights the irreplaceable role of public service media and stresses that it is essential to ensure and maintain their independence from political interference; condemns attempts by Member State governments to silence critical media and undermine media freedom and pluralism, in particular attempts to control public service media; deplores the fact that in some Member States public broadcasting has become an example of single political party propaganda, which often excludes opposition and minority groups from society and even incites violence; stresses that safeguarding independent authorities and ensuring strong independent oversight of audiovisual media against undue state and commercial intervention is crucial;
5. Reiterates its concern that few specific legal or policy frameworks protecting journalists and media workers from violence, threats and intimidation can be identified at national level within the EU; calls on the Member States and the Commission to ensure the effective protection and safety of journalists and other media actors as well as of their sources, including in a cross-border context; strongly reiterates its call on the Commission to present proposals to prevent so-called 'Strategic Lawsuits Against Public Participation' (SLAPP);
6. Stresses that excessive concentration of the content-producing and content-distributing sectors may threaten citizens' access to a range of content; underlines that media pluralism, which depends on the existence of a diversity of media ownership and of content as well as independent journalism, is key to challenging the spread of disinformation and ensuring that EU citizens are well-informed;
7. Is concerned about attempts to take advantage of the COVID-19 pandemic to punish independent and critical media and introduce restrictions on the media's access to and scrutiny of government decisions and actions, hampering proper and informed debate on those actions; stresses the role of journalism and the free flow of information as essential to the EU's efforts to contain the COVID-19 pandemic; points out that journalism plays a crucial function at a moment of public health emergency;
8. Calls on the Commission and the Member States to urgently introduce EU and national emergency recovery packages to protect the jobs and livelihoods of media workers, support companies and fund public service media through the COVID-19 crisis; stresses that in the face of the pandemic European citizens need professional, economically secure and independent journalists; reiterates in this context its call for the creation of a permanent European fund for journalists in the framework of the next MFF (2021-2027), as redrafted following the COVID-19 crisis, offering direct financial support for independent journalists and media outlets, freelancers and self-employed media workers;

Hate speech

9. Condemns all types of incidents of hate crime and hate speech that occur regularly within the EU;
10. Calls on the Member States to strongly condemn and sanction hate crime, hate speech and scapegoating by politicians and public officials, at all levels and on all types of

media, as these phenomena directly normalise and reinforce hatred and violence in society;

11. Reiterates its call on the Member States to take further measures to prevent, condemn and counter hate speech and hate crime, so as to fight organisations that spread hate speech and violence in public spaces and online;
12. Takes note of the Code of Conduct on Countering Illegal Hate Speech Online, promoted by the Commission, and of its fourth evaluation round, from which it emerges that IT companies are removing on average 72 % of the illegal hate speech notified to them;
13. Points out that Member States must ensure, by all appropriate means, that the media, including online and social media, as well as advertising, are free from all incitement to violence or hatred directed against any person or group of persons; points out that xenophobia is the most commonly reported ground of hate speech; reiterates its call on the Commission, the Member States and social media companies to counteract the spread of racism, xenophobia and LGBTI-phobia on the internet, in cooperation with the relevant civil society organisations;

Disinformation and the role of platforms

14. Notes that the new digital environment has exacerbated the problem of the spread of disinformation and has resulted in online platforms playing an influential role in publishing, disseminating and promoting news and other media content; reiterates its concern about the potential threat disinformation poses to freedom of expression and the independence of the media;
15. Recalls that political profiling, disinformation and manipulation of information may be used by political parties and private or public entities, and reiterates its concern about the fact that evidence of interference is continuously coming to light, often with indications of foreign influence, in the run-up to all major national and EU elections, with much of this interference benefiting anti-EU, extreme right-wing and populist candidates and targeting specific minorities and vulnerable groups;
16. Points out that different forms of misinformation and disinformation, as well as other forms of information manipulation relating to the COVID-19 pandemic, continue to proliferate around the world and have potentially harmful consequences for public security, health and effective crisis management; recalls that all measures to combat disinformation, including those taken in the context of the COVID-19 emergency, need to be necessary, proportionate and subject to regular oversight, and may under no circumstances prevent journalists and media actors from carrying out their work or lead to content being unduly blocked on the internet;
17. Welcomes the Commission's initiative to present a European Democracy Action Plan that aims to counter disinformation and to adapt to evolving threats and manipulations, as well as to support free and independent media; emphasises in this respect that protecting free and independent media while combating hate speech and disinformation is a fundamental factor in terms of the defence of the rule of law and democracy in the EU;
18. Reminds the Commission and the Member States as well as the private sector, in

particular online platforms, and civil society as a whole of the need for joint action when it comes to the fight against disinformation, and acknowledges the positive impact of the voluntary actions taken by service providers and platforms to counter disinformation;

19. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

EXPLANATORY STATEMENT

Freedom of the media has been continuously deteriorating in recent years, even in some of the most influential democracies. Media freedom and pluralism are, however, pillars of modern democracy and represent crucial elements of open and free democratic debate. Together with the freedom of expression, independent journalism and an environment free of hate speech and disinformation, they are therefore essential to the proper democratic functioning of the EU and its Member States. The rapporteur stresses that media capture, hate speech and disinformation are increasingly being used as tools to increase social polarization, which is in turn exploited for political purposes. The ultimate goal is to incite hatred of any group, idea or institution so that it becomes such a highly sensitive issue in society that the emotional responses override any attachment to the rules of a democratic state governed by the rule of law and human rights. It thus becomes possible to gain social support for authoritarian governments. Media capture, hate speech and disinformation are now the basic tools used in process of authoritarianization, i.e. the introduction of authoritarian rule while maintaining the formal appearance of democratic elections. The Rapporteur therefore strongly emphasizes that combating media capture, hate speech and disinformation is not only relevant to the domain of human rights, but is also a fundamental factor in terms of the defence of the rule of law and democracy in the EU.

Media freedom and pluralism

Media freedom and pluralism are rooted in the fundamental right of freedom of expression and information, enshrined in Article 11 of the EU Charter of Fundamental Rights, Article 10 of the ECHR and Article 19 of the International Covenant on Civil and Political Rights. Despite those safeguards, journalism is increasingly under threat. While more individuals have access to content than ever before, the combination of political polarization and technological change frequently hampers the ability of journalists to report freely on matters of public interest. As argued in the recent Freedom House report on media freedom ‘while the threats to global media freedom are real and concerning in their own right, their impact on the state of democracy is what makes them truly dangerous.’²¹

While the COVID-19 pandemic has exacerbated pre-existing threats to media freedom²², it has also brought to the forefront the importance of the media and access to verified information. Free and independent media proved to be a key source of credible, lifesaving information and professional journalism proved itself to be a crucial service during a public health emergency.

In this context, the recent statement of the Reporters Without Borders, stipulating that the next decade will be pivotal in ensuring the preservation of media freedom and the future of journalism, is particularly significant.²³ The efforts of the Member States and the EU itself in safeguarding and promoting a pluralist, independent and free media landscape, free of hate speech and disinformation, are therefore nowadays not only fundamental in guaranteeing the

²¹ Freedom House, *Freedom and the Media 2019*;

²² Reporters Without Borders (RSF), 2020 World Press Freedom Index, *Entering a decisive decade for journalism, exacerbated by coronavirus*,

²³ Reporters Without Borders (RSF), 2020 World Press Freedom Index, *Entering a decisive decade for journalism, exacerbated by coronavirus*,

right to freedom of expression and information, but in the defence of the democratic states governed by the rule of law.

The rapporteur shares the view that one of the greatest menaces to editorial independence in a growing number of countries across the world is media capture, a form of media control that is achieved through systematic steps by governments and powerful interest groups.²⁴ In this regard, she strongly welcomes the intention of the COMMISSION to include a specific chapter on monitoring media freedom and pluralism in its Annual Report on the Situation of the Rule of Law within the EU. In the context of the impact of the COVID-19 pandemic on media freedom, the rapporteur notes that the crisis has further exposed systemic weaknesses in a number of countries, and deplores that several governments have used the situation as an opportunity to implement emergency laws and restrictions that challenge the ability of journalists to inform the public and hold those in power to account.

Political independence of the media

In the context of this ever-growing concern over a lack of independence in public service media management and funding the rapporteur stresses the need for a legal framework to supervise the operation of public service media providers. This should include checks on whether they fulfil the criteria of prudent management and task-based financing, and whether their services fulfil the expectations of fact-based, fair and ethical journalism. The rapporteur deplores the fact that in some Member States, public broadcasting has become an example of single political party propaganda, filled with hate speech and partisan, pro-government discourse, excluding opposition and minority groups from society and even inciting violence. Public service media should be independent from political interference due to its irreplaceable role, and Member State governments should refrain from any attempts to control them.

The protection of journalists

The rapporteur considers the safety of journalists and the fight against impunity for crimes committed against them as essential to guaranteeing the fundamental right to freedom of expression. The work done by journalists and media personnel is increasingly shrouded by a climate of insecurity and fear. The findings of the 2020 Annual report of the Council of Europe's Platform for the Protection of Journalism and the Safety of Journalists highlighted a continuous and alarming trend of violence and intimidation against journalists in recent years. It therefore remains essential for the EU and its Member States to prioritise the protection of journalists, and for the Member States to deploy all means to avoid impunity for crimes that are linked to journalism, while OSCE reports that impunity prevails with less than 15% of murders of journalists being solved.

There are still few specific legal or policy frameworks protecting journalists and media workers from violence, threats and intimidation that can be identified at national level in EU Member States. The need for effective protection is therefore more than pressing. In this context, the rapporteur also reiterates the European Parliament's call on the Commission to present proposals to prevent so-called 'Strategic Lawsuits Against Public Participation' in order to protect the independent media from vexatious lawsuits intended to silence or

²⁴ UNESCO. 2018. *World Trends in Freedom of Expression and Media Development: 2017/2018 Global Report*, Paris

intimidate them in the EU.

Financial and economic pressure

The rapporteur stresses that the situation of independent journalism, which has been facing financial and economic pressure caused by the economic crisis and ongoing technological disruption, has been further aggravated due to the devastating social and economic impact of COVID-19 on the media sector. One of the main causes for media capture remains financial pressure. Trends show that weakened media independence and declines in professional standards of journalism are inextricably linked to increased economic pressure.²⁵ Precarious working conditions may also expose journalists and other media actors to undue pressures to depart from accepted journalistic ethics and standards.²⁶ In this context the rapporteur takes the view that establishing a permanent European fund for independent journalism under the framework of the next MFF (2021-2027), as redrafted following the COVID-19 crisis, is a matter of primary importance.

Hate speech

Despite the omnipresence of hate speech in the offline and online environments, and the wide use of the term in legal, policy-making and academic circles, there is still an ongoing debate about its scope and about the way it should be tackled. The rapporteur shares the view that insofar as a regulatory framework is necessary to counter hate speech, that framework should be holistic, as well as strategically differentiated, in order to effectively combat hate speech.²⁷ The regulatory framework must also be complemented by a framework for non-legal action. The rapporteur strongly reiterates the call on the Member States to condemn and sanction hate crime, hate speech and scapegoating by politicians and public officials at all levels and on all types of media. She also strongly underlines that the climate of impunity that plagues interactions in the digital sphere further magnifies the damaging potential of online attacks and harassment. The rapporteur also stresses the vital importance of considering the role of the media and social media platforms in the dissemination of hate speech. While being aware of the criticism surrounding several legislative initiatives at national level for failing to adequately take freedom of expression into consideration while countering hate speech,²⁸ the rapporteur stresses that particular attention needs to be paid to the tension between justified freedom of expression and unjustified permissibility of hate speech.

Disinformation

The exposure of citizens in the digital environment to what some experts describe as a wider ‘information disorder’, in which mis-, mal- and disinformation co-exist,²⁹ has been identified as a major challenge for Europe, having a detrimental impact on European values, democratic

²⁵ UNESCO. 2018. *World Trends in Freedom of Expression and Media Development: 2017/2018 Global Report*.

²⁶ FRA. 2016. *Violence, threats and pressures against journalists and other media actors in the EU*.

²⁷ Tarlach McGonagle, *The Council of Europe against online hate speech: Conundrums and challenges*,

²⁸ Amélie Heldt, *Reading between the Lines and the Numbers: An Analysis of the First NetzDG Reports*, Internet Policy Review 8(2), 2019.

²⁹ Claire Wardle and Hossein Derakhshan, *Information Disorder: Toward an interdisciplinary framework for research and policy making*, Council of Europe report DGI (2017)09, p. 20.

systems and the integrity of elections.³⁰ Because of the multi-faceted character of online disinformation, efforts to counter it encompass different types of responses, actors and objectives. The rapporteur notes the Commission's role overseeing the elaboration of a voluntary 'self-regulatory' Code of Practice on Disinformation, and welcomes the Commission's initiative to present a European Democracy Action Plan that, among others, aims to counter disinformation. In this context, the rapporteur recalls that social media platforms are not simply passive platforms, and underlines their increasing role in introducing algorithm-based advertising and content publication, while also expressing the view that this role should be better reflected and defined in the regulatory field. The rapporteur shares the view that countering disinformation initiatives must be fully in compliance with the right to freedom of expression and other rights guaranteed by international and regional human rights law,³¹ and also that Member State governments must ensure that measures to combat disinformation are necessary, proportionate and subject to regular oversight,³² in particular in the context of countering disinformation about COVID-19.

³⁰ Roberto Viola, 2019. *Online Disinformation: A Major Challenge for Europe*, in European Commission, Digital Single Market. Brussels: European Commission.

³¹ UNESCO. 2019. *Elections and media in digital times*, In Focus edition of the World Trends in Freedom of Expression and Media Development, Paris.

³² <https://www.coe.int/en/web/commissioner/-/press-freedom-must-not-be-undermined-by-measures-to-counter-disinformation-about-covid-19>