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# DRAFT REPORT

on media pluralism and media freedom in the European Union  
(2017/2209(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Barbara Spinelli

SCHEMA PROVVISORIO IN ATTESA DELLA VERSIONE  
CONSOLIDATA DEL RAPPORTO:

IN GIALLO: Emendamenti dei vari gruppi e pareri delle Commissioni Affari giuridici e Cultura, approvati in Commissione LIBE, 27-3-18

IN BLU: Emendamenti suppletivi B. Spinelli (Rapporteur) approvati in Commissione Libe

IN VERDE: COMPROMESSI negoziati preliminarmente tra il rapporteur e i vari gruppi, approvati in Commissione Libe

PR\_INI

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on media pluralism and media freedom in the European Union (2017/2209(INI))

*The European Parliament,*

- having regard to Articles 2, 3, 6, 7, 9, 10, 11 and 49 of the Treaty on European Union (TEU) and Articles 9, 10 and 16 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to **Article 11 of the Charter of Fundamental Rights of the European Union, (Mamikins - S&D)**
- having regard to **Article 10 of the European Convention on Human Rights, the case law of the European Court of Human Rights and the European Social Charter, (Mamikins - S&D)**
- **having regard to the International convention on the Elimination of All forms of Racial Discrimination (ICERD), adopted and opened for signature and ratification by General Assembly resolution 2106 of 21/12/1965, (Post - S&D)**
- having regard to the European Charter on Freedom of the Press,
- **having regard to Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, (Terricabras - Greens/EFA)**
- **having regard to Protocol No 29 of the TUE on the System of Public Broadcasting in the Member States, (Mamikins - S&D)**
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence,
- having regard to the declarations, recommendations and resolutions of the Committee of Ministers and Parliamentary Assembly of the Council of Europe and the Opinions and the Rule of Law Checklist of the Venice Commission,
- having regard to the Council of Europe study entitled ‘Journalists under pressure – Unwarranted interference, fear and self-censorship in Europe’,
- having regard to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the UN Convention against Corruption and the UNESCO Convention on the Protection and the Promotion of the Diversity of Cultural Expressions,
- having regard to the General Comment No. 34 of the UN Human Rights Committee,
- having regard to the UN Guiding Principles on Business and Human Rights,
- having regard to the relevant resolutions of the UN General Assembly, the UN Human

- Rights Council and the reports of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression,
- having regard to the UN Plan of Action on the Safety of Journalists and the Issue of Impunity,
  - having regard to the work carried out by the Organisation for Security and Cooperation in Europe (OSCE) on media freedom, in particular by its Representative on Freedom of the Media,
  - having regard to the work carried out by the Council of Europe Platform to promote the protection of journalism and safety of journalists,
  - having regard to the joint declaration on freedom of expression and ‘Fake News’, disinformation and propaganda, issued on 3 March 2017 by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the OSCE Representative on Freedom of the Media, the Organisation of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information,
  - having regard to the outcomes of the World Press Freedom Index, published by Reporters Without Borders, and to those of the Media Pluralism Monitor of the European University Institute’s Centre for Media Pluralism and Media Freedom,
  - having regard to the Policy Brief entitled ‘Defining Defamation: Principles on Freedom of Expression and Protection of Reputation’ published by ARTICLE 19,
  - having regard to its resolution of 21 May 2013 on the EU Charter: standard settings for media freedom across the EU<sup>1</sup>,
  - having regard to its resolutions of 12 March 2014 on the US NSA surveillance programme, surveillance bodies in various Member States and their impact on EU citizens’ fundamental rights and on transatlantic cooperation in Justice and Home Affairs<sup>2</sup> and of 29 October 2015 on the follow-up to the European Parliament resolution of 12 March 2014 on the electronic mass surveillance of EU citizens<sup>3</sup>,
  - 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 rights<sup>4</sup>,
  - ***having regard to its resolution of 16 March 2017 on e-democracy in the European Union: potential and challenges, (Spinelli - GUE/NGL)***
  - having regard to its resolutions of 14 February 2017 on the role of whistleblowers in the

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<sup>1</sup> Texts adopted, P7\_TA(2013)0203.

<sup>2</sup> Texts adopted, P7\_TA(2014)0230.

<sup>3</sup> Texts adopted, P8\_TA(2015)0388.

<sup>4</sup> Texts adopted, P8\_TA(2016)0409.

protection of EU's financial interests<sup>1</sup> and of 24 October 2017 on legitimate measures to protect whistle-blowers acting in the public interest when disclosing the confidential information of companies and public bodies<sup>2</sup>,

- having regard to the EU Human Rights Guidelines on Freedom of Expression Online and Offline and the Commission Guidelines for EU support to media freedom and media integrity in enlargement countries, 2014-2020,
  - **having regard to the Council conclusions and of the representatives of the Governments of the Member States, meeting within the Council, on media freedom and pluralism in the digital environment on 25 - 26 November 2013, (Mamikins - S&D)**
  - having regard to the Commission's 2016 Annual Colloquium on Fundamental Rights entitled 'media pluralism and democracy' and the relevant contributions published by the European Union Agency for Fundamental Rights,
  - having regard to European Data Protection Supervisor (EDPS) opinion 5/2016 on the review of the e-Privacy Directive (2002/58/EC),
  - **having regard to the High Level Expert Group on fake news and online disinformation appointed by the European Commission to advise on scoping the phenomenon of fake news as well as defining the roles and responsibilities of relevant stakeholders, (Boni - EPP)**
  - **having regards to Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA, (Chinnici, Fajon - S&D)**
  - **having regards to the European Council Conclusions on security and defence on 22 June 2017, (Chinnici, Fajon, Kyrkos - S&D)**
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Culture and Education and of the Committee on Legal Affairs (A8-0000/2017),
- A.** whereas the rights to freedom of expression and freedom of opinion are fundamental human rights and indispensable conditions for the full development of the persons **and their active participation in a democratic society**, for the realisation of the principles of transparency and accountability and for the fulfilment of other human rights and fundamental freedoms; **(COMPROMISE 15)**

**Aa.** **whereas pluralism is inseparable from freedom, democracy and the rule of law; (Melo - EPP)**

<sup>1</sup> Texts adopted, P8\_TA(2017)0022.

<sup>2</sup> Texts adopted, P8\_TA(2017)0402.

- Ab.** *whereas the right to inform and the right to be informed are part of the core basic democratic values on which European Union is founded; (Melo - EPP)*
- Ac.** *whereas the importance of a pluralistic, independent and trustworthy media as a guardian and monitor of democracy and the rule of law cannot be underestimated; (Melo - EPP)*
- B.** *whereas media freedom, pluralism and independence are crucial components of the right to freedom of expression; whereas the media play an essential role in democratic society, by acting as public watchdogs, **while helping to inform and empower citizens, through widening their understanding of current political and social landscape, and fostering their conscious** participation in democratic life; whereas the scope of such a role should be enlarged to encompass online and citizen journalism, as well as the work of bloggers, **internet users**, social media activists and human rights defenders, in order to reflect today's profoundly changed media reality **while respecting the right to privacy; whereas net neutrality is an essential principle for the open internet;** (COMPROMISE 16)*
- Ba.** *whereas fakenews, cyberbullying or revenge porn represent growing concerns for our societies especially among young people; (Chinnici, Fajon, Niedermüller, Kyrkos, Kyenge - S&D)*
- Bb.** *whereas the spread of false news and disinformation on social media or search websites has strongly impaired the credibility of traditional medias which consequently harms their capacity to act as watchdogs; (Chinnici, Fajon, Niedermüller - S&D)*
- C.** *whereas public authorities have the duty not only to refrain from implementing restrictions on freedom of expression, but also the positive obligation to adopt a legal and regulatory framework which fosters the development of free, independent and pluralistic media;*
- Ca.** *whereas the freedom of expression shall never, due to Article 2 and 4 of ICERD and Article 30 of the Universal Declaration of Human Rights, be used to defend expressions that violate the Convention and the Declaration, such as hate speech or propaganda which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic group or which attempt to justify or promote racial hatred and discrimination in any form; (Post - S&D)*
- Ca.** *whereas public authorities have the duty to protect the independence and the impartiality of public media in particular as actors serving democratic societies as opposed to fulfilling the interest of governments in power; (Boni - EPP)*
- Ca.** *whereas the authorities must also ensure that the media comply with the laws and regulations in force; (Morano - EPP)*
- Cb.** *whereas the spread of populist and nationalist sentiments in certain Member States demonstrates the need for the European Union to defend the freedom of expression and the independence of media; (Boni - EPP, Adottato congiuntamente ad un emendamento simile di Melo, probabilmente il wording cambierà un po')*

**dall'Unione dei due emendamenti)**

- D. whereas, according to the Council of Europe, the abuses and crimes committed against journalists by both state and non-state actors, have a grave and chilling effect on freedom of expression; whereas the risk and frequency of unwarranted interference heightens the sense of fear among journalists, citizen journalists, bloggers and other information actors, leading to a potential high degree of self-censorship, while undermining citizens' rights to information and participation;
- Da. *whereas the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression recalled in September 2016 that Governments have a responsibility not only to respect journalism but also to ensure that journalists and their sources have protection through strong laws, prosecutions of perpetrators and ample security where necessary; (Spinelli - GUE/NGL)***
- Da. *whereas journalists and other medias actors are still facing violence, threats, harassment or public shaming in the European Union mainly because of their investigative activities to protect public interest from the misuse of power, corruption, human rights violations or criminal activities; (Chinnici, Fajon, Niedermüller, Kyrkos, Kyenge - S&D)***
- Db. *whereas guaranteeing the safety and security of journalists and other media actors is a precondition to ensure fully their role and capacity to properly inform citizens and to participate effectively in public debate; (Chinnici, Fajon, Niedermüller, Kyenge - S&D)***
- Dc. *whereas, according to the Council of Europe Platform to promote the protection of journalism and safety of journalists, more than half cases of abuses against media professionals are committed by state actors; (Chinnici, Fajon, Niedermüller, Kyrkos, Kyenge - S&D)***
- Dd. *whereas investigative journalism should be promoted as civic engagement and as an act of virtuous citizenship supported by communication, learning, education and training; (Chinnici, Fajon, Niedermüller, Kyenge - S&D)***
- E. whereas the radical evolution of the media system, the *rapid growth* of the online *dimension* of media *pluralism* and the *rise of* search engines and social media platforms *as sources of news* represent both a challenge and *an* opportunity for the promotion of freedom of expression, *for democratizing the production of news* by involving citizens in the public debate, and for converting a growing number of information users into information producers; whereas, however, the concentration of power of media conglomerates, platform operators and internet *intermediaries and the media control by economic corporations and political actors* risk *causing* negative consequences for the pluralism of public debate and access to information *and to impact freedom, integrity, quality and editorial independence of journalism and broadcast media; whereas a level playing field at European level is necessary for ensuring that search engines, social media platforms and other high-tech giants respect the rules of the EU Digital Single Market, such as e-privacy and competition; (COMPROMISE 17)***
- Ea. *whereas journalists require direct, immediate and unencumbered access to***

*information by public administration to properly hold authorities to account;* (Terricabras - Greens/EFA)

**Eb.** *whereas information obtained both by right of inquiry as well as through whistle-blowers are complementary to each other and both essential for journalists' ability to fulfil their public interest mission;* (Terricabras - Greens/EFA)

**Ec.** *whereas journalists require fullest legal protection to use and disseminate such information of public interest in their line of work;* (Terricabras - Greens/EFA)

**Ed.** *whereas the right to demand and receive information from public administrations remains scattered and incomplete across the European Union;* (Terricabras - Greens/EFA)

**F.** *whereas the media sector plays a key role in any democratic society;* whereas the effect of the economic crisis, coupled with the simultaneous growth of social media platforms and other high-tech giants and highly selective advertising revenues, have dramatically increased precariousness in the working conditions and social insecurity of media actors, *including independent journalists*, leading to a dramatic drop in professional, social *and quality* standards in journalism *that may negatively affect their editorial independence;* (COMPROMISE 18)

**Fa.** *whereas the European Audiovisual Observatory of the Council of Europe has denounced the emergence of a digital duopoly with Google and Facebook representing up to 85% of all digital advertising market growth in 2016, imperilling the future of traditional advertising-financed media companies, such as commercial TV channels, newspapers and magazines which have a far more limited audience reach;* (Spinelli - GUE/NGL)

**G.** *whereas, in the context of the enlargement policy, the Commission has the duty to demand full compliance with the Copenhagen criteria, including freedom of expression and the media, and the EU should therefore show the example of highest standards in this field;* whereas, once Members of the EU, States are continuously *and unequivocally* bound by human rights obligations by virtue of the EU Treaties and the EU Charter of Fundamental Rights *and the respect for freedom of expression and the media in the EU Member States should be subject to a regular scrutiny;* *whereas the EU can only be credible on the global stage if press and media freedoms are safeguarded and respected within the Union itself;*

**Ga.** *whereas research consistently finds evidence that women are in the minority across media sectors, particularly in creative roles, and are severely underrepresented at senior, decision-making levels;* *whereas studies of women's participation in journalism suggest that, while there is a relatively good gender balance among entrants into the journalism profession, the distribution of decision-making responsibility is characterised by significant gender disparity;* (Terricabras - Greens/EFA)

**Ga.** *whereas the provisions of the Charter of Fundamental Rights of the European Union and of the Treaty on the European Union which ensure respect for these principles are pursued through positive actions to promote freedom and pluralism of the media,*



***to promote the quality, access and availability of information (positive freedom), but also requires the omission by public authorities in order to avoid harmful aggressions (negative freedom); (Melo - EPP)***

**H.** whereas unlawful and arbitrary surveillance, particularly when carried out on a mass scale, is incompatible with human rights and fundamental freedoms, inter alia freedom of expression – including freedom of the press and protection of confidentiality of journalistic sources –, the right to privacy and data protection; ***whereas the internet and social media play a role in spreading hate speech and fostering radicalisation leading to violent extremism by circulating illegal contents, especially to the detriment of young people; whereas tackling those phenomena require close and coordinated collaboration between all concerned actors, at all levels of governance (local, regional and national) as well as with the civil society and the private sector;*** whereas effective security and counterterrorism laws and activities, as well as measures aimed at countering and preventing ***hate speech and*** violent extremism should always be the subject of fundamental rights obligations ***so as to avoid any conflicts with the protection of freedom of expression;*** (**COMPROMISE 20**)

**I.** whereas, echoing the Council of Europe, whistleblowing is a fundamental aspect of freedom of expression and plays ***an essential role in detecting and reporting irregularities and wrongdoings,*** and in strengthening democratic accountability and transparency; ***whereas whistleblowing represents a key source of information in the fight against organised crime, in investigating, identifying and publicising cases of corruption within the public and private sector as well as in detecting tax avoidance schemes set up by private companies;*** whereas the adequate protection of whistleblowers at EU, national and international level, ***as well as the promotion of a culture of acknowledgement of the important role played by whistle-blowers in society,*** are preconditions for ensuring the effectiveness of such a role; (**COMPROMISE 21**)

**Ia.** ***whereas, in the context of fighting corruption and maladministration in the EU, the investigative journalism should receive particular regard and financial support as a tool serving to the public good;*** (Mamikins - S&D)

**Ib.** ***whereas according to the findings of the Media Pluralism Monitor, media ownership remains highly concentrated and this constitutes a significant risk to diversity of information and viewpoints represented in media content;*** (Mamikins - S&D)

**Ic.** ***whereas the coverage of the EU affairs and the work of the EU institutions and agencies should equally fall under the criteria of media pluralism and media freedom, as the coverage of the national news, and should have a multilingual support to reach maximum of the EU citizens;*** (Mamikins - S&D)

**I.** Calls on the Member States to take appropriate measures, ***including ensuring adequate public funding,*** to safeguard and promote a pluralist, independent and free media landscape in the service of democratic society, including the independence and sustainability of public service media, community media ***and grassroots media,*** which are crucial elements of a favourable environment for ***ensuring the fundamental right to freedom of expression and information;*** (**COMPROMISE 1**)

- 1a.** *Welcomes the decision to name the European Parliament press room to slain journalist Daphne Caruana Galizia; Reiterates to this end its call for a European Parliament annual prize for investigative journalism to be named after Daphne Caruana Galizia; (Metsola, Melo - EPP)*
- 1c.** *Emphasizes the shared responsibility of lawmakers, journalists, publishers and internet intermediaries, but also of citizens as consumers of information; (Melo - EPP)*
2. Calls on the EU institutions to guarantee full implementation of the EU Charter of Fundamental Rights in all their decisions, actions and policies, as a means to thoroughly uphold media pluralism and media freedom **from undue influence from national public authorities**; asks the Commission, in this regard, to introduce human rights impact assessments for the evaluation of its legislative proposals and to present a proposal for the establishment of an EU mechanism on democracy, the rule of law and fundamental rights in line with the relevant Parliament resolution; **(Boni - EPP)**
- 2a.** *Stresses the need to have in place independent monitoring mechanisms to assess the situation of media freedom and media pluralism in the EU, as a mean to promote and protect the rights and freedoms enshrined in Article 11 of the EU Charter of fundamental rights and Article 10 of the ECHR and to promptly react to their possible threats and violations; calls on the Commission and the Member States to fully support and strengthen the tools already developed in this regard, such as the Media Pluralism Monitor and the COE Platform for the Protection of Journalism and Safety of Journalists; (Spinelli - GUE/NGL)*
- 2a.** *Calls on the Commission, as guardian of the treaties, to treat attempts by Member States' governments to harm media freedom and pluralism as the serious and systemic abuse of power and move against fundamental values of the European Union enshrined in Article 2 TEU that they are, considering the rights to freedom of expression and freedom of opinion are fundamental human rights, and media freedom, pluralism and independence play an essential role in democratic society, including by acting as a check on government and state power; (Niedermüller - S&D)*
- 3.** Expresses its deep concern at the abuses, crimes and deadly attacks still being committed against journalists and media workers in the Member States *because of their activities*; urges the Member States to do their utmost to prevent such violence, to ensure accountability and avoid impunity and to guarantee that victims and their families have access to the appropriate legal remedies; *calls on Member States to set up an independent and impartial regulatory body, in cooperation with journalists' organisations, for monitoring, documenting and reporting on violence and threats against journalists and to deal with the protection and the safety of journalists at national level*; calls on the Member States, moreover, to fully implement the Council of Europe Recommendation CM/Rec(2016)4 on the protection of journalism and safety of journalists and other media actors; **(COMPROMISE 2)**
- 3a.** *Expresses its concern over the worsening working conditions for journalists and the amount of psychological violence that journalists witness; therefore, calls on the Member States to set up national action plans, in close cooperation with journalist*

*organisations, to improve the working conditions of journalists and to safeguard that journalists will not be victims of psychological violence; (Post - S&D)*

**3a.** *Is concerned with the state of media freedom in Malta following the assassination of anti-corruption journalist Daphne Caruana Galizia in October 2017, who was also subject to harassment, including precautionary warrants that froze her bank accounts, and threats made by multi-national companies; (Metsola, Melo - EPP)*

**3a.** *Calls on the Member States to fully support the initiative launched by Reporters Without Borders for the creation of a Special Representative to the United Nations Secretary General for the safety of journalists; (Spinelli - GUE/NGL)*

**4.** *Calls on the Member States to create and maintain, in law and in practice, a safe and secure environment for journalists and other media actors, including foreign journalists pursuing their journalistic activities in the EU Member States, enabling them to perform their work in full independence and without undue interference – such as the threat of violence, harassment, financial, economic and political pressure, pressure to disclose confidential sources and materials, and targeted surveillance; stresses the necessity for the Member States to guarantee efficient legal recourse procedures, in respect of the above acts, for the journalists whose freedom to work has been threatened, so as to avoid self-censorship; highlights the importance of taking a gender-sensitive approach when considering measures to address the safety of journalists; (COMPROMISE 3)*

**4a.** *Calls on Member states to carry out an independent review of their relevant laws and practices in order to protect freedom of expression and freedom and pluralism of media; (Niedermüller - S&D)*

**5.** *Underlines the importance of ensuring adequate working conditions for journalists and media workers, in full compliance with the requirements of the EU Charter of Fundamental Rights and the European Social Charter, as a means to avoid undue internal and external pressure, dependency, vulnerability and instability, and hence the risk of self-censorship; highlights that independent journalism cannot be guaranteed and fostered by the market alone; asks the Commission and the Member States, therefore, to promote and elaborate new socially sustainable economic models aimed at financing and supporting quality and independent journalism, and to ensure that the public is accurately informed; asks the Member States to strengthen financial support to public service providers and investigative journalism while refraining from involvement in editorial decisions; (COMPROMISE 4)*

**5a.** *Condemns attempts by governments to silence critical media and demolish media freedom and pluralism, including by more sophisticated ways that do not typically create an alert in the Council of Europe Platform to promote the protection of journalism and safety of journalists, such as by government members and cronies buying up commercial media outlets and high-jacking public service media to serve partisan interests; (Niedermüller - S&D)*

**5a.** *Highlights the necessity to support and broaden the scope of activities of the European Center for Press and Media Freedom, particularly of its legal support to journalists under threat; (Mamikins - S&D)*

- 6.** *Recognises that freedom of expression may be subjected to restrictions - provided that they are prescribed by law, pursue a legitimate aim and are necessary in a democratic society - in the interest, amongst others, of the protection of the reputation and rights of others; expresses its concern, however, at the negative and chilling effects that criminal defamation laws **might have on** the right to freedom of expression, freedom of the press and public debate; calls **on the Member States to refrain from any misuse of criminal defamation laws by striking a fair balance between the right to freedom of expression and the right to respect for private and family life, including reputation, while ensuring the right to an effective remedy and** avoiding excessively punitive and disproportionate penalties and sanctions, in line with the criteria laid down by the European Court of Human Rights; (COMPROMISE 5)*
- 6a.** ***Calls on the European Commission to propose an Anti-SLAPP (Strategic lawsuit against public participation) Directive that will protect independent media from vexatious lawsuits intended to silence or intimidate them in the EU; (Metsola, Melo - EPP)***
7. Considers that the participation in democratic processes is founded, first and foremost, on effective and non-discriminatory access to information and knowledge; calls for the EU and its Member States to develop adequate policies to attain universal access to the internet and to recognise internet access – including net neutrality – as a fundamental right;
- 7a.** ***Deplores the decision adopted by the U.S. Federal Communications Commission to repeal the 2015 rules on net-neutrality and highlights the negative consequences that decision might have, in a globally interconnected digital world, on the right of access to information without discrimination; calls on the EU and the Member States to pursue the path of strengthening the net-neutrality principle by building on and furthering the BEREC Guidelines on the Implementation by National Regulators of European Net Neutrality Rules; (Spinelli - GUE/NGL)***
- 15.** ***Encourages Member States to step up their efforts to strengthen media literacy and promote training and educational initiatives among all citizens through formal, non-formal and informal education from a lifelong learning perspective, also by paying special attention to initial and ongoing teacher training and support as well as by encouraging dialogue and cooperation between the education and training sector and all relevant stakeholders, including media professionals, civil society and youth organisations; reaffirms the need to support age-appropriate innovative tools to promote empowerment and online safety as compulsory elements of the curriculum at schools and to bridge the digital divide both through specific technological literacy projects and with adequate investments in infrastructures, in order to ensure universal access to information; (Opinion CULT)***
- 7a.** ***Calls on the Commission and Member States to ensure that journalists are given the proper tools to inquire and receive information from EU and Member State administrations; (Terricabras - Greens/EFA)***
- 8.** Highlights the important role played by independent and pluralistic media in political debate and on the right to pluralistic information both during electoral terms and in the intervening periods; stresses the need to guarantee full expression for all political actors,

*in line with the provisions of the ICERD, and to base the amount of airtime they are given on public service broadcast channels on journalistic and professional criteria and not on their degree of institutional representativeness or political views;*  
**(COMPROMISE 6)**

**8a.** ***Calls on the Commission to check whether Member States are allocating broadcasting licences on the basis of objective, transparent, impartial and proportionate criteria; (Kyrkos - S&D)***

9. Calls on the Member States and the Commission to refrain from adopting unnecessary measures aimed at arbitrarily restricting access to the internet and the exercise of basic human rights or at controlling public communications, such as the adoption of repressive rules on the establishment and operation of media outlets and/or websites, the arbitrary imposition of states of emergency, technical control over digital technologies – i.e. blocking, filtering, jamming and closing down digital spaces – or the de facto privatisation of control measures by pressuring intermediaries to take action to restrict or delete internet content; calls for the EU and the Member States, furthermore, to prevent such measures from being adopted by private operators;

**9a.** ***Calls on the European Commission and the Member States to ensure full transparency by private companies and governments in the use of algorithms, artificial intelligence and automated decision-making, which should not be implemented and developed in a way and with the intent of arbitrary blocking, filtering and removing internet contents, and to guarantee that any EU digital policy and strategy must be drafted with human rights based approach, providing for appropriate remedies and safeguards and in full compliance with the relevant provisions of the EU Charter of fundamental rights and of the ECHR; (Spinelli - GUE/NGL)***

**10.** *Reiterates that cyberbullying, revenge porn and child sexual abuse material are a growing concern in our societies and can have extremely serious impacts especially among young people and children, and highlights that the interests and rights of minors must be fully respected in the context of mass media; encourages all Member States to set up forward looking legislation to address these phenomena including provisions for detection, flagging and removal from social media of contents which are manifestly harmful for human dignity;*

*In order to react against the misuse of social media for terrorist purpose, encourages the Commission and Member States to strengthen their efforts to build effective counter-narratives and to provide clear guidelines that ensure legal certainty and predictability for users, service providers and the internet sector as a whole, while ensuring the possibility of judicial redress in accordance with national law;*

Stresses however that any measures restricting or removing internet content should only be adopted in *specified, explicit and legitimate* circumstances and under strict judicial oversight, in line with international standards, the case law of the European Court of Human Rights, and Article 52 of the EU Charter of Fundamental Rights;

**(COMPROMISE 7)**

**10a.** ***Recalls that Protocol 29 to the Treaties recognises that the system of public broadcasting in the Member States is directly related to the democratic needs of each***

***society and that it is therefore necessary to preserve media pluralism and objectivity;***  
**(Kyrkos - S&D)**

- 11.** ***Takes note*** of the Code of Conduct on Countering Illegal Hate Speech Online, promoted by the Commission; ***points to*** the large margin of discretion left to private companies to determine what constitutes ‘illegality’ and calls for such margin to be restricted, so as to avoid any risks of censorship and arbitrary restrictions on freedom of expression; **(COMPROMISE 8)**
- 12.** Reaffirms that anonymity and encryption are essential tools for the exercise of democratic rights and freedoms, for promoting trust in the digital infrastructure and communications, and for protecting the confidentiality of sources in journalism; ***recognises that encryption and anonymity provide the privacy and security necessary for the exercise of the right to freedom of opinion and expression in the digital age and recalls that free access to information necessarily implies safeguarding the personal information citizens leave behind when operating online; takes note that encryption and anonymity can also give rise to abuses and wrongdoings, making it difficult to prevent criminal activities and to conduct investigations, as pointed out by law enforcement and counter-terrorism officials; recalls that restrictions on encryption and anonymity must be limited according to the principles of legality, necessity and proportionality; calls on the EU institutions and the Member States to fully endorse and implement the recommendations set out in the Report of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of 22 May 2015 addressing the use of encryption and anonymity in digital communications;*** **(COMPROMISE 9)**
- 12a.** ***Encourages the development of ethical codes for journalists as well as for those involved in the management of media outlets, in order to ensure the full independence of journalists and media bodies;*** **(Pagazaurtundúa Ruiz, Deprez, Michel - ALDE)**
- 12a.** ***Underlines that law enforcement and judicial authorities face many obstacles while investigating and prosecuting online offences also due to discrepancies among EU member states legislations;*** **(Chinnici, Fajon, Kyenge - S&D)**
- 13.** Recognises that the new digital environment has exacerbated the problem of the spread of disinformation, or the so-called ‘fake’ or ‘false’ news; recalls, however, that this is not a new phenomenon, nor is it restricted to the online sphere; ***stresses the importance of guaranteeing the right to quality information by enhancing citizens' access to reliable information and preventing the propagation of online and offline misinformation; reminds that the use of the term “fake news” should never be aimed at undermining public trust in the media and at discrediting and criminalising critical voices; expresses its concern about the potential threat the notion of fake news can pose to the freedom of speech and expression and to the independence of the media, while underlining the negative effects that the spread of false news might have on the quality of political debate and on the well-informed participation of citizens in the democratic society;***  
 stresses the importance of ***ensuring*** effective ***self-regulatory mechanisms*** based on the principles of accuracy and transparency and providing for proper obligations and

instruments regarding source verification and fact checking *by independent and impartial certified third parties fact checking organisations to foster the objectivity of information and its protection;* (COMPROMISE 10)

**13a.** *Encourages social media companies and online platforms to develop tools to enable users to report and flag potential fake news for facilitating prompt rectification and for review by independent and impartial certified third party fact checking organisations, tasked with providing precise definitions of fake news and disinformation in order to reduce the margin of discretion left to the private sector actors, and to continue to display and to label as “false news” information revealed as such, with a view to stimulating public debate and preventing any re-emergence of the same disinformation in a different form;* (COMPROMISE 11)

**16.** *Emphasises that developing a sense of critical appraisal and analysis with regard to the use and creation of media content is essential to people’s understanding of current issues and contribution to public life, as well as their knowledge about both the transformative potential and the threats inherent to an increasingly complex and interconnected media environment; stresses that media literacy is a crucial democratic skill that empowers citizens; calls on the Commission and the Member States to develop specific measures in order to promote and support media literacy projects, such as the pilot project on Media Literacy for All and to develop a comprehensive media literacy policy targeting citizens of all age groups and all media types as an integral part of the European Union’s education policy, supported accordingly by relevant EU funding opportunities such as ESI Funds and Horizon 2020;* (Opinion CULT)

**13b.** *Recognises that the role and investment of press publishers in investigative, professional and independent journalism is essential for fighting against the proliferation of ‘fake’ news and stresses the need to ensure the sustainability of a pluralistic editorial press content; encourages both the European Commission and Member States to invest adequate financial resources in media and digital literacy and in developing communication strategies, together with International and civil society organisations, in order to empower citizens and online users to recognise and be aware of dubious sources of information and to spot and disclose deliberately false content and propaganda; to this regard, encourages also the Member States to integrate media and information literacy into national education systems; calls on the Commission to consider the best practices from national level to ensure the quality of journalism and reliability of the information published;* (COMPROMISE 12)

**13a.** *Welcomes the European Commission decision to establish a High Level Expert Group on fake news and online disinformation composed by representatives of the civil society, social media platforms, news media organisations, journalists and academia in order to analyse these emerging threats and propose operative measures to be taken both at European and national level;* (Chinnici, Fajon, Piri, Niedermüller, Kyrkos, Kyenge - S&D)

**13a.** *Underlines the responsibility of online actors in avoiding the spread of unverified or untrue information with sole purpose of increasing the online traffic through the use of e.g. so-called clickbait;* (Boni - EPP)

- 13h.** *Reiterates the right of each individual to decide on the fate of his or her personal data, in particular the exclusive right to control the use, disclosure of personal information and the right to be forgotten defined as the possibility to obtain a prompt removal of contents that might be prejudicial for his or her own dignity from social media and search websites; (Chinnici, Fajon, Piri, Niedermüller, Kyenge - S&D)*
- 14.** *Underlines the key role of whistleblowers in safeguarding the public interest and in promoting a culture of public accountability and integrity in both public and private institutions; reiterates its call on the Commission and the Member States to set up and implement an adequate, advanced and comprehensive framework for a common European legislation to protect whistleblowers by fully endorsing the Council of Europe's recommendations and the recent Parliament Resolutions of 14 February 2017 and 24 October 2017; Considers it necessary to ensure that reporting mechanisms are accessible, safe and secure, and that the claims of whistleblowers and investigative journalists are professionally investigated; (COMPROMISE 13)*
- 14a.** *Stresses that legal protection of whistleblowers when publicly disclosing information rests especially on the public's right to receive it; underlines that nobody should lose the benefit of protection on the sole grounds that he or she has misjudged the facts or that the perceived threat to the public interest did not materialise, provided that, at the time of reporting, he or she had reasonable grounds to believe them to be true; recalls that, persons who knowingly report wrong or misleading information to competent authorities should not be considered as whistle-blowers and thus should not enjoy the protection mechanisms; stresses, furthermore, that any person who is prejudiced, whether directly or indirectly, by the reporting or disclosure of inaccurate or misleading information should be afforded the right to seek effective remedies; (COMPROMISE 13A)*
- 14b.** *Encourages the media sector to safeguard gender equality in media policy and practice, through co-regulatory mechanisms, internal codes of conduct and other voluntary actions; (Terricabras - Greens/EFA)*
- 14c.** *Urges the European Commission and the Member states to engage on social campaigns, education programmes, and more targeted training and awareness-raising (including for industry decision-makers) to promote egalitarian values and practices through funding and promotion at the national and European level in order to address gender inequality in the media sector effectively; (Terricabras - Greens/EFA)*
- 14d.** *Underlines that media professionals often work in precarious conditions with regard to their contracts, salaries and social guarantees, which compromises their ability to work appropriately and thus hampers media freedom; (Terricabras - Greens/EFA)*
- 14d.** *Encourages both the European Commission and Member States to adopt measures to protect the confidentiality of the information sources in order to prevent any discriminatory actions or threats; (Chinnici, Fajon, Niedermüller, Kyrkos - S&D)*
- 17.** *Notes with concern that, as highlighted by the 2016 Media Pluralism Monitor, media access by minorities, local and regional communities, women and people with*



*disabilities is at risk; stresses that inclusive media are essential in an open, free and pluralistic media landscape, and that all citizens have the right of access to independent information in their mother tongue, be it a state or minority language; underlines the importance of providing European journalists, especially those working in lesser-used and minority languages, with adequate training and retraining opportunities; calls, therefore, on the Commission and Member States to encourage and support research, projects and policies that improve access to the media, as well as relevant initiatives aimed at vulnerable minority groups (such as the pilot project on Internship opportunities for minority language media), and to guarantee opportunities for participation and expression for all citizens; (Opinion CULT)*

- 15.** *Emphasizes that freedom of the press requires independence from political and economic power, which implies equal treatment regardless of the editorial orientation; reiterates the importance of upholding a journalism that benefits from mechanisms that prevent the concentration of single groups, monopolistic or quasi-monopolistic groups, ensuring free competition and editorial diversity; calls on the Member States to adopt and implement a media ownership regulation in order to avoid horizontal concentration of ownership in the media sector and indirect and cross-media ownership, to guarantee transparency, disclosure, and easy accessibility for citizens to information on media ownership, funding sources and management; underlines the importance to apply appropriate restrictions on media ownership by persons holding public office and to ensure independent oversight and effective compliance mechanisms in order to prevent conflicts of interest and revolving doors;*

*Considers it essential to have independent and impartial national authorities to ensure an effective supervision of the audio-visual media sector; (COMPROMISE*

**14)**

- 15a.** *Urges Member States to develop their own strategic capabilities and engage with local communities in the EU and EU neighbourhood to foster a pluralistic media environment and to communicate EU policies coherently and effectively; (Pagazaurtundúa Ruiz, Deprez, Michel - ALDE)*

- 15a.** *Invites the Member States to fully support and endorse the COE Recommendation of the Committee of Ministers to member states on media pluralism and transparency of media ownership, currently under discussion within the Council of Europe; (Spinelli - GUE/NGL)*

- 15b.** *Recalls the important role exerted by public broadcasters in preserving media pluralism, as highlighted in the Protocol No. 29 to the Treaties; calls on the Member States to provide them with the adequate financial and technical means necessary to perform their social function and serve the public interest; to this regard, calls on the Member States to guarantee their editorial independence by preserving them, through clearly defined regulatory frameworks, from any form of governmental, political and commercial interference and influence, while assuring, at the same time, full management autonomy and independence to all public bodies and entities which exercise powers in the areas of broadcast and telecommunications; (Spinelli - GUE/NGL)*

- 15b.** *Calls on the Commission to allocate permanent and adequate funding in the EU budget to support the Media Pluralism Monitor at the Centre for Media Pluralism and Media Freedom and create a yearly mechanism of assessment of the risks for media pluralism in the EU member states; stresses that the same mechanism should be applied to measure Media Pluralism in candidate countries and the results of the Media Pluralism Monitor should have actual bearing on the progress of the negotiation process; (Terricabras - Greens/EFA)*
- 15b.** *Calls on the Commission to monitor and collect information and statistics about media freedom and pluralism within all Member States and to closely analyse cases of infringement of the fundamental rights of journalists while respecting the principle of subsidiarity; (Chinnici, Fajon, Niedermüller, Kyrkos, Kyenge - S&D)*
- 15b.** *Stresses the need for the intensified sharing of best practices among audio-visual regulatory authorities of the Member States; (Mamikins - S&D)*
- 15c.** *Recognises that internet and, more generally, the development of the digital environment has expanded the scope of several human rights, as shown, for instance, by the judgment of the European Court of Justice in the case C-131/12 Google Spain SL and Google Inc v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González; calls, in this regard, on the EU institutions to launch a participatory process in order to elaborate a European Charter of Internet Rights, taking into account the best practices developed in the Member States - in particular the Italian Declaration of Internet Rights - to be used as reference point, together with the relevant European and International human rights instruments, for the regulation of the digital sphere; (Spinelli - GUE/NGL)*
- 15c.** *Calls on the Commission to take into account the recommendations contained in the European Parliament's resolution of 25 October 2016 on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights; in this sense, calls on the Commission to include the results and the recommendations of the Media Pluralism Monitor on the risks for media pluralism and media freedom in the EU when drawing up the annual Report on democracy, the rule of law and fundamental rights (European DRF Report); (Terricabras - Greens/EFA)*
- 15d.** *Stresses the necessity to abolish geoblocking for information media content allowing the EU citizens to access online, on-demand and replay streaming of the television channels of other EU Member States; (Mamikins - S&D)*
- 15e.** *Urges the Member States to align their policy of issuing licenses for national broadcasting companies with the principle of respect for media pluralism; the prices and the strictness of obligations related to the licenses issuing should be subject to scrutiny and should not jeopardize the media freedom; (Mamikins - S&D)*
- 8.** *Suggests that in order to efficiently safeguard media freedom and pluralism, the participation in public procurement of companies whose ultimate owner also owns a media company should be prohibited or at least made fully transparent; proposes that Member States should be required to regularly report on all public funding provided to media enterprises and that all public funding provided to media owners should be regularly monitored; stresses that media owners should not have been convicted or*

*found guilty of any criminal offence; (Opinion JURI)*

9. *Stresses that any public funding to media organisations should be given on the basis of non-discriminatory, objective and transparent criteria, which should be made known in advance to all media; (Opinion JURI)*
15. *Calls on the Commission and the Member States to ensure that journalists are given the proper tools to inquire and receive information from EU and Member States' public administration authorities, according to Regulation 1049/2001 on public access to documents, without facing arbitrary decisions denying such right of access; notes that the information obtained through the right of inquiry by journalists or by citizens, including information obtained through whistle-blowers, is both complementary and essential to journalists' ability to fulfil their public interest mission; reiterates that access to public sources and events should depend on objective, non-discriminatory and transparent criteria; (Opinion JURI)*
23. *Notes that in the evolving digital media ecosystem, new intermediaries have emerged with the ability to influence and control information and ideas online by acquiring gate-keeping functions and powers; underlines that there must be sufficient independent and autonomous online channels, services and sources with the capacity to deliver a plurality of opinions and democratic ideas to the public on issues of general interest; calls on the Member States to develop new or existing national policies and measures in this regard; (Opinion JURI)*
6. *Recalls that the Member States should find ways to support the media, by ensuring, for example, VAT neutrality as recommended in its resolution of 13 October 2011 on the future of VAT<sup>1</sup>, and by supporting initiatives related to the media; (Opinion CULT)*
18. *Recommends that the Commission develop a sectoral strategy for the European media sector based on innovation and sustainability; considers that such a strategy should strengthen cross-border collaboration and co-productions between media actors in the EU in order to highlight their diversity and promote intercultural dialogue, to enhance cooperation with individual newsrooms and audiovisual services of all the European institutions, in particular with that of Parliament, and to foster media coverage and visibility of EU affairs; (Opinion CULT)*
22. *Stresses the importance of developing further models for the establishment of a European public service broadcasting platform that fosters EU-wide political debates based on facts, dissent and respect, contributes to a plurality of views in the newly converged media environment and fosters the visibility of the EU in its external relations; (Opinion CULT)*
23. *Requests that the Commission and the Member States protect media freedom and freedom of speech in contemporary arts by promoting the creation of artworks that give voice to social concerns, encourage critical debate and inspire counter-speech; (Opinion CULT)*

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<sup>1</sup> OJ C 94 E, 3.4.2013, p. 5.

16. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and to the Secretary General of the Council of Europe.

## EXPLANATORY STATEMENT

Through the adoption of Lisbon Treaty, the European Union has identified itself as a community of values in which human rights represent its cornerstone. Freedom of expression and information is internationally recognized as one of the core elements of the human rights and fundamental freedoms' architecture. It has been enshrined – among others – in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention of Human Rights. The case-law of the European Court of Human Rights, as well as the work carried out by several international organization (UN, OSCE, Council of Europe), has developed and clarified its field of application. Article 11 of the Charter of Fundamental Rights of the European Union has formally broadened its scope by including freedom and pluralism of the media in the domain of protection. Taken together, all these instruments consolidate a precise responsibility of the Member States and the EU itself to fully protect this fundamental human right and, at the same time, to put in place positive measures to proactively promote its progress.

Besides its intrinsic status as human right, freedom of expression and pluralist and independent media perform also a fundamental social role, acting as public watchdog, sheltering citizens from States' as well as private interests' abuses and empowering them to actively participate in the democratic life.

The conditions of effective media freedom, pluralism and independence from political pressure and economic interests have been aggravated since the adoption of the European Parliament resolution of 21 May 2013 “on the EU Charter: standard settings for media freedom across the EU”, as stressed by the findings of the 2017 World Press Freedom Index published by Reporters Without Borders (RSF)<sup>1</sup> and the conclusions of the 2017 Policy Report of the European University Institute<sup>2</sup>.

Threats to freedom of expression and media pluralism are manifold and encompass a wide range of measures put in place both by States' actors and private parties.

### ***Violence, threats and pressures against journalists***

Even in the EU Member States, journalists continue to be the target of deadly attacks. The assassination of the Maltese journalist Daphne Caruana Galizia represents only the last episode in this sense. However, pressures against journalists take different and multi-faceted forms. As highlighted by the European Agency of Fundamental Rights, these include threats of violence; incidents in the context of public assemblies; alleged interference by political actors; pressures to disclose confidential sources and materials; interference through security and intelligence services; as well as financial and economic pressures<sup>3</sup>. These factors, coupled with political

<sup>1</sup> Reporters Without Borders (RSF), 2017 World Press Freedom Index, *Journalism weakened by democracy's erosion*, <https://rsf.org/en/journalism-weakened-democracys-erosion>

<sup>2</sup> Centre for Media Pluralism and Media Freedom (CMPF), European University Institute, “*Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2016 in the European Union, Montenegro and Turkey*”, <http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/>

<sup>3</sup> European Agency for Fundamental Rights (FRA), *Violence, threats and pressures against journalists and other media actors in the EU*, Contribution to the second Annual Colloquium on Fundamental Rights - November 2016, <http://fra.europa.eu/en/publication/2016/violence-threats-and-pressures-against-journalists-and-other-media-actors-european>

interferences as well as a high degree of concentration in the media sector, are also expanding the phenomenon of self-censorship, as illustrated by the Council of Europe’s study “*Journalists under pressure: Unwarranted interference, fear and self-censorship in Europe*”<sup>1</sup>. The worsening of the working and economic conditions in the media sector deriving from the economic crisis, together with the emergence of new international actors such as high tech giant or social media platforms able to dominate the online advertising market and with budget cuts operated in some Member States against public service broadcaster, are enhancing precariousness while magnifying self-censorship.

### ***The digital sphere***

Digital technologies have undoubtedly provided with new and deeply transformative instruments of participatory democracy, enlarging it in a revolutionary way and enabling citizens to turn from information-users into information-producers. The risk of disinformation implicit in the viral spreading of the internet content, in the difficulties of challenging and correcting it in time, as well as in the censorship power that might be exerted by social media platforms and tech giants, represents the flip-side of that. However, from the perspective of international law, the issue of “fake news” must be approached with extreme caution, keeping in mind that mainstream legacy media have been – and are – equally prone to spread false news, and that prohibition of “fake” or “false” news has often served as an instrument to control the media and restrict editorial freedom. We are cognizant that deceitful information can cause serious harm (damaging individuals’ reputation, violating their privacy), but restrictions on “fake news” are not the solution. Final “truth” and “objectivity” are ambiguous and dangerous concepts. The demand to publish only absolute true reports is not only unrealistic but also illiberal. Moreover, we should bear in mind that the digital age has made the verification of facts easier than it ever was in traditional media: manipulation of digital material can be investigated, if the will is there, and internet has at its disposal the instruments and offers the infrastructure for checking sources and facts. Allowing public officials to decide what counts as truth is tantamount to accepting that the forces in power have a right to silence critical voices. As for “hate speech” or “terrorism”, the notion of “fake news” is too vague to prevent subjective and arbitrary interpretations. Nor would it be reassuring to have private entities like Facebook making these assessments instead of public authorities.

### ***National measures and the Copenhagen dilemma***

National security and fight against terrorism are becoming a common thread for the Member States leading to the adoption of legislative acts and other measures bound to have a deep impact on human rights and fundamental freedoms, as proved by the Snowden case and the relevant case-law of the Court of Justice. Recently enacted national laws in various Member States enhancing surveillance powers conferred to security and police forces and secret services, the monitoring of communications and the retention of personal data, risk – without proper due legal guarantees and remedies – to undermine the very essence of the right to freedom of expression as well as other fundamental rights such as, for instance, the right to privacy and data protection.

Similar measures limiting the enjoyment of the freedom of expression and information or the basic functions of free and independent media, as for instance the very existence of criminal

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<sup>1</sup> Marilyn Clark and Anna Grech, *Journalists under pressure - Unwarranted interference, fear and self-censorship in Europe*, Council of Europe Publishing, 2017

defamation laws, have the same potential to corrupt the democratic debate.

Candidate countries must prove to respect, according to article 49 TEU, the EU values listed in article 2 TEU: an obligation enshrined in the Copenhagen criteria. However, no real EU instrument is in place to guarantee the effective observance of human rights and rule of law by Member States, except for the so-called “nuclear option” provided for in article 7 TEU. The political interferences occurred in recent decades in, among others, Italy, Poland, Spain and Hungary prove the need to have a proper EU institutional mechanism of monitoring and redress.

### *Whistle-blowers*

Whistleblowing has been widely recognised as a fundamental aspect of freedom of expression and an essential tool for guaranteeing transparency and accountability of the democratic institutions. The need of an effective whistle-blowers protection has been repeatedly invoked by several international organisations, such as the Council of Europe or the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and by the European Parliament itself. However, a common EU framework is still to be adopted, and various Member States lack an adequate system in this regard.